Montana Legislative History

Chapter: Session L: 1999 **Checklist of Bill History**

Bill Number: 678 House

History and Final Status Sheet ☒

Introduced Bill

Fiscal Note ☐

Third Reading Bill

Final Version of Bill

House	**Senate**
Committee: Taxation	Committee: Taxation
Hearing Date(s): March 29, 1999	Hearing Date(s): April 13, 1999
Committee Report: March 29, 1999	Committee Report: April 14, 1999

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: Sonia Gavin

Date: November 3, 2023

Notes: The exhibits are not available online, so you will need to contact the legislative services division if you need those. Their phone number is 406-444-3064.

HOUSE BILL NO. 678

INTRODUCED BY B. STORY, R. ERICKSON, K. GILLAN, M. GUGGENHEIM, M. HANSON, C. HIBBARD, B. REHBEIN

BY REQUEST OF THE HOUSE TAXATION STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A REIMBURSEMENT TO LOCAL GOVERNMENTS, LOCAL TAXING JURISDICTIONS, AND SCHOOL DISTRICTS FOR REVENUE LOST BECAUSE OF TAX REDUCTIONS AND EXEMPTIONS; ~~REIMBURSING COUNTIES, CITIES, AND TOWNS ON A LOSS BASIS PLUS 1.5 PERCENT; REIMBURSING SCHOOL DISTRICTS THROUGH THE USE OF DIRECT STATE AID, GUARANTEED TAX BASE, INCREASING THE STATE PORTION OF TRANSPORTATION COSTS, AND BLOCK GRANTS; INCREASING THE DIRECT STATE AID PERCENTAGE TO 41.7 PERCENT FOR FISCAL YEAR 2000 AND 43 PERCENT FOR FISCAL YEAR 2001; DECREASING THE GUARANTEED TAX BASE AID PERCENTAGE TO 38.3 PERCENT FOR FISCAL YEAR 2000 AND TO 37 PERCENT FOR FISCAL YEAR 2001; PROVIDING A STATUTORY APPROPRIATION FOR CERTAIN REIMBURSEMENTS;~~ AMENDING ~~SECTIONS~~ SECTION 17-7-502, ~~20-9-141, 20-9-306, 20-9-366, 20-9-367, 20-9-368, 20-10-144, AND 20-10-145,~~ MCA; REPEALING SECTIONS 15-1-111 AND 15-1-112, MCA; AND PROVIDING AN EFFECTIVE ~~DATES AND A TERMINATION DATES~~ DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Third Reading Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. **Section 1. Local government and school reimbursement.** (1) Each taxing jurisdiction, including but not limited to cities, towns, counties, school districts, tax increment financing districts, special districts, authorities, or miscellaneous taxing districts, but not including the state of Montana, is entitled to reimbursement for loss of tax base as a result of the passage of [House Bill No. 128, House Bill No. 174, House Bill No. 658, Senate Bill No. 184, Senate Bill No. 200, Senate Bill No. 260, and Senate Bill No. 530] as provided in this section.

(2) (a) Each taxing jurisdiction's base reimbursement amount is determined by the formula, A * (1-((B + C) / (D + (E * 1.4)))), in which:

(i) A is the revenue raised in the jurisdiction from mill levies and motor vehicle taxes under 61-3-504 in

tax year 1998 and from local government reimbursement under 15-1-111 and 15-1-112 in fiscal year 1998, except that:

(A) if a mill levy that existed in 1998 is eliminated, then the portion of the 1998 revenue allocated to that levy in factor "A" is removed from the calculation of "A"; and

(B) mill levies established after January 1, 1999, may not be used in the calculation of factor "A";

(ii) B is taxable value in the most recent completed tax year of the jurisdiction;

(iii) C is the total, in the most recent completed tax year, of all the motor vehicle manufacturer's suggested retail prices, depreciated in accordance with 61-3-503, for light vehicles in the jurisdiction;

(iv) D is the taxable value in tax year 1998 of the jurisdiction; and

(v) E is the total, in tax year 1998, of all the motor vehicle manufacturer's suggested retail prices, depreciated in accordance with 61-3-503, for light vehicles in the jurisdiction.

(b) A taxing jurisdiction is not entitled to any reimbursement if the calculated reimbursement amount is zero or a negative number.

(3) The total reimbursable amount for each fiscal year is the total of all taxing jurisdiction base reimbursement amounts for the state. Each taxing jurisdiction is entitled to reimbursement equal to base reimbursement amount, or if an insufficient amount of money has been appropriated for total reimbursement under this section, then all the base reimbursement amounts must be reduced proportionally.

(4) The reimbursement payment must be made annually in two payments on July 1 and January 1 by the department to each county treasurer. Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement to each taxing jurisdiction to be allocated to mill levies in proportion to 1998 revenue from mill levies and motor vehicle taxes under 61-3-504.

(5) The governor shall include the total reimbursable amount for both years of the ensuing biennium, increased or decreased by the same percentage that the previous year's individual income tax collections have changed from the 1999 tax year's individual tax collections, in the present law base budget prepared for each session.

Section 2. Section 17-7-502, MCA, is amended to read:

"17-7-502. (Temporary) Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; ~~15-1-111;~~ 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-131; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-161; 85-20-402; 87-1-513; 90-3-301; 90-4-215; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates July 1, 2001; pursuant to sec. 5, Ch. 461, L. 1997, the inclusion of 77-1-131 terminates October 1, 2003; and pursuant to secs. 13, 16(1), Ch. 549, L. 1997, the inclusion of 90-3-301 terminates July 1, 1999.)

17-7-502. (Effective July 1, 2008) Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; [16-1-406;] 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-5-404; 17-5-804; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-9-361; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 87-1-513; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 68(2), Ch. 422, L. 1997, this version becomes effective July 1, 2008.)"

NEW SECTION. **Section 3. Repealer.** Sections 15-1-111 and 15-1-112, MCA, are repealed.

NEW SECTION. **Section 4. Coordination instruction.** (1) If any of the following is passed and approved in a form that contains a reimbursement mechanism for local government, then:

(a) in House Bill No. 128:

(i) [sections 19 and 20], third reading copy, are void;

(ii) [section 18] must read as follows:

"NEW SECTION. **Section 18. Distribution of retail telecommunications excise tax revenue.** After retaining an allowance for refunds, retail telecommunications excise tax revenue collected by the department

must be deposited in the state general fund."

(b) in House Bill No. 174, [section 15] of the second reading second house copy is void; and

(c) in Senate Bill No. 200, [sections 1 and 26] of the enrolled bill, are void; and

(d) in House Bill No. 658, Senate Bill No. 184, Senate Bill No. 260, or Senate Bill No. 530, any section that contains a reimbursement mechanism for local government is void.

(3) If Senate Bill No. 260 and [this act] are both passed and approved, then [section 3] of Senate Bill No. 260, amending 61-3-509, must read as follows:

"Section 3. Section 61-3-509, MCA, is amended to read:

"61-3-509. Disposition of taxes. (1) Except as provided in subsection (2), the county treasurer shall, after deducting the district court fee, credit all taxes on motor vehicles and fees in lieu of tax on motorcycles, quadricycles, motor homes, travel trailers, campers, trailers, pole trailers, semitrailers, buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors collected under 61-3-504, 61-3-521, 61-3-527, 61-3-529, and 61-3-537, to a motor vehicle suspense fund. At some time between March 1 and March 10 of each year and every 60 days after that date, the county treasurer shall distribute the money in the motor vehicle suspense fund~~. Except for taxes collected under 61-3-504, the county treasurer shall distribute the money in the fund~~ in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed.~~For money in the fund collected under 61-3-504, the county treasurer shall disregard the statewide mills levied for the university system and the mills levied for state equalization aid under 20-9-360 in determining distribution proportions of the money and may not distribute money from 61-3-504 to the state for either levy. If the distribution of money collected under 61-3-504 to a school district general fund results in a lower revenue than the district received in fiscal year 1999 and the district has, for all years after fiscal year 1999, received less revenue than fiscal year 1999, then the district general fund is entitled to state reimbursement for the amount of the difference between the fiscal year 1999 revenue and the current year distributions of collections under 61-3-504.~~

(2) The county treasurer shall deduct as a district court fee ~~7%~~ 10% of the amount of the ~~2%~~ tax collected on light vehicles under 61-3-504(1). The county treasurer shall credit the fee for district courts to a separate suspense account and shall forward the amount in the account to the state treasurer at the time that the county treasurer distributes money from the motor vehicle suspense fund. The state treasurer shall credit amounts received under this subsection to the state special revenue fund to be used for purposes of state funding of district court expenses as provided in 3-5-901.""

(4) If House Bill No. 90 and Senate Bill No. 260 are passed and approved and amend 20-9-141, then section 20-9-141 must read as follows:

"Section 20-9-141, MCA is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid and the special education allowable cost payment for the district by totaling:

(i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in 20-9-303; and

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353, including any additional funding for a general fund budget that exceeds the maximum general fund budget.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

(ii) ~~amounts received in the last fiscal year for which revenue reporting was required for each of the following:~~

~~(A)~~ anticipated tuition payments for out-of-district pupils under the provisions of 20-5-321 through 20-5-323, except the amount of tuition received for a pupil who is a child with disabilities in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2);

~~(B)~~(iii) anticipated revenue from taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504, 61-3-521, 61-3-527, 61-3-529, 61-3-537, and 67-3-204;

~~(C)~~(iv) anticipated oil and natural gas production taxes;

(v) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703;

~~(D)~~(vi) anticipated interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4);

~~(E)~~ (vii) anticipated revenue from corporation license taxes collected from financial institutions under the provisions of 15-31-702; and

~~(F)~~ (viii) any other revenue ~~received~~ anticipated during the school fiscal year that may be used to finance

the general fund, excluding any guaranteed tax base aid~~; and~~

~~(iii) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703~~.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE budget levy requirement.

(d) Subtract any amount remaining after the determination in subsection (1)(c) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as provided in 20-9-353 to determine any additional general fund levy requirements.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners on the fourth Monday of August by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703.""

NEW SECTION. **Section 5. Allocation of reimbursement.** There is allocated $80 million from the general fund to the department of revenue for reimbursement to taxing jurisdictions as provided in [section 1].

NEW SECTION. **Section 6. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 1].

NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 1999.

- END -

MONTANA LEGISLATIVE BRANCH

Montana Legislature
Detailed Bill Information

1999 January Regular Session

The 56th Regular Session of the Montana Legislature adjourned Sine Die on April 21st, 1999.

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Bill Draft Number: LC1924 Current Bill Text: Previous Version(s)
Bill Type - Number: HB 678 Fiscal Note
Short Title: Revise distribution of revenue to local government
Primary Sponsor: Bob Story (R) HD 24

Bill Actions - **Current Bill Progress:** Probably Dead

Bill Action Count: 41

Print Friendly

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
(H) Died in Process	04/22/1999			
(S) Returned to House with Amendments	04/15/1999			
(S) 3rd Reading Concurred	04/15/1999	47	3	
(S) Scheduled for 3rd Reading	04/15/1999			
(S) Scheduled for 3rd Reading	04/15/1999			
(S) 2nd Reading Concurred	04/14/1999	48	2	
(S) Scheduled for 2nd Reading	04/14/1999			
(S) Committee Report--Bill Concurred as Amended	04/13/1999			(S) Taxation
(C) Printed - New Version Available	04/13/1999			
(S) Committee Executive Action--Bill Concurred as Amended	04/13/1999	9	0	(S) Taxation
(H) Fiscal Note Printed	04/12/1999			
(S) Hearing	04/12/1999			(S) Taxation
(H) Fiscal Note Received	04/07/1999			
(S) Referred to Committee	04/01/1999			(S) Taxation
(S) First Reading	04/01/1999			
(H) Transmitted to Senate	03/30/1999			
(H) 3rd Reading Passed	03/30/1999	83	17	
(H) 2nd Reading Passed	03/30/1999	86	13	
(H) Scheduled for 2nd Reading	03/30/1999			
(H) Committee Report--Bill Passed as Amended	03/29/1999			(H) Taxation
(C) Printed - New Version Available	03/29/1999			
(H) Committee Executive Action--Bill Passed as Amended	03/29/1999	20	0	(H) Taxation
(H) Hearing	03/29/1999			(H) Taxation
(S) Rules Suspended to Accept Late Transmittal of Bill	03/26/1999	49	0	
(C) Introduced Bill Text Available Electronically	03/24/1999			
(H) Fiscal Note Requested	03/24/1999			
(H) Referred to Committee	03/24/1999			(H) Taxation
(H) First Reading	03/24/1999			
(H) Introduced	03/24/1999			
(C) Draft Delivered to Requester	03/24/1999			

(C) Draft Ready for Delivery	03/24/1999			
(C) Draft in Assembly/Executive Director Review	03/24/1999			
(C) Draft in Final Drafter Review	03/24/1999			
(C) Bill Draft Text Available Electronically	03/23/1999			
(C) Draft in Input/Proofing	03/23/1999			
(C) Draft to Drafter - Edit Review	03/23/1999			
(C) Draft in Edit	03/23/1999			
(C) Draft in Legal Review	03/23/1999			
(C) Draft to Requester for Review	03/23/1999			
(C) Fiscal Note Probable	03/11/1999			
(C) Draft Request Received	03/11/1999			

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	(H) Taxation Standing Committee		
Drafter	Petesch	Greg	
By Request Of	(H) Taxation Standing Committee		
Primary Sponsor	Story	Bob	

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Appropriations (see also: State Finance)	Appropriation	Simple	APP
Local Finance (see also: City Finance; County Finance)		Simple	LGF

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Additional Bill Information

Fiscal Note Probable: Yes
Preintroduction Required: N
Session Law Ch. Number:
DEADLINE
Category: Revenue Bills
Transmittal Date: 03/30/1999
Return (with 2nd house amendments) Date: 04/15/1999

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Section Effective Dates

No Records returned

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

11/03/2023 11:15 AM Mountain Time

| Look Up Bill Information | Committee and Hearing Information |

| House Agenda(s) | House Journals | | Senate Agenda(s) | Senate Journals |
| Legislator Information | Reports |
***LAWS Instructional Video Library* (How-to video demos!)** NEW

| *Legislative Branch Home Page* | *Session Home Page* | *Session Information Page* |
HELP | *CONTACT US!* | *Privacy & Security*

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on March 29, 1999 at 8:00 A.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Kim Gillan, Vice Chairman (D)
Rep. Bob Story, Vice Chairman (R)
Rep. Gary Beck (D)
Rep. Rick Dale (R)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Daniel Fuchs (R)
Rep. Mary Anne Guggenheim (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Dan Harrington (D)
Rep. John L. Holden (R)
Rep. Verdell Jackson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Roger Somerville (R)

Members Excused: Rep. Trudi Schmidt (D)

Members Absent: None.

Staff Present: Donna Grace, Committee Secretary
Jeff Martin, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:

SB 454 - 3/22/1999
SB 441 - 3/22/1999
HB 677 - 3/23/1999
HB 678 - 3/23/1999

Executive Action:

HB 677 - Table
HB 678 - Do Pass as Amended
HB 240 - Do Pass as Amended
HB 665 - Removed from Table; Table

EXECUTIVE ACTION ON HB 677

Motion/Vote:

At the request of the sponsor, a motion was made to **TABLE.** The **MOTION PASSED** unanimously.
{Tape : 1; Side : A; Approx. Time Counter : 1.5}

HEARING ON SB 441

Opening Statement by Sponsor:

Sen. Chris Christiaens, Senate District 23
{Tape : 1; Side : A; Approx. Time Counter : 2.2}

Proponents' Testimony:

Rhonda Carpenter, Montana Housing Providers EXHIBIT(tah70a01)
{Tape : 1; Side : A; Approx. Time Counter : 3.4}

Dennis Burr, Montana Taxpayers Association
{Tape : 1; Side : A; Approx. Time Counter : 10}

Opponents' Testimony:

Mary Bryson, Director, Department of Revenue
{Tape : 1; Side : A; Approx. Time Counter : 11.1}

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 17.0}

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 15.6}

HEARING ON SB 454

Opening Statement by Sponsor:

Sen. Tom Beck, Senate District 28
{Tape : 1; Side : B; Approx. Time Counter : 18.2}

Proponents' Testimony:

Don Allen, Powell County
{Tape : 1; Side : B; Approx. Time Counter : 24.8}

Opponents' Testimony:

None.

Informational Testimony:

Ross Swanson, Ranch Accunting and Fiscal Manager, Department of Corrections
{Tape : 1; Side : B; Approx. Time Counter : 27.2}

Mary Bryson, Director, Department of Revenue
{Tape : 1; Side : B; Approx. Time Counter : 27.4}

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 28.4}

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 24.3}

HEARING ON HB 678

Opening Statement by Sponsor:

Rep. Robert Story, House District 24 (Committee Bill)
EXHIBIT(tah70a02)

{Tape : 2; Side : A; Approx. Time Counter : 26.4}

Proponents' Testimony:

Gordon Morris, Montana Association of Counties
{Tape : 2; Side : B; Approx. Time Counter : 9.6}

Madalyn Quinlan, Department of Public Instruction
EXHIBIT(tah70a03)
{Tape : 2; Side : B; Approx. Time Counter : 12.4}

Mike Kadas, Mayor, Missoula EXHIBIT(tah70a04)
{Tape : 2; Side : B; Approx. Time Counter : 16.5}

Alec Hanson, League of Cities and Towns
{Tape : 2; Side : B; Approx. Time Counter : 26.4}

Jani McCall, City of Billings
{Tape : 3; Side : A; Approx. Time Counter : 0.1}

Mary Bryson, Director, Department of Revenue
{Tape : 3; Side : A; Approx. Time Counter : 1.4}

Gloria Paladichuk, City of Glendive, Richland Development Corporation
{Tape : 3; Side : A; Approx. Time Counter : 2}

Rep. Emily Swanson, House District 30
{Tape : 3; Side : A; Approx. Time Counter : 3}

Tom Daubert, Montana Association of Oil, Gas and Coal Counties.
{Tape : 3; Side : A; Approx. Time Counter : 7}

Cheryl Patton, City of Great Falls
{Tape : 3; Side : A; Approx. Time Counter : 8.6}

Jane Kelley, Cascade County Commissioner
{Tape : 3; Side : A; Approx. Time Counter : 8.8}

Opponents' Testimony:

Ivan Small, Indian Impact Schools of Montana
{Tape : 3; Side : A; Approx. Time Counter : 9.5}

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 11.5}

Closing by Sponsor:

{Tape : 3; Side : A; Approx. Time Counter : 22.5}

EXECUTIVE ACTION ON HB 678

Motion:

Rep. Hanson MOVED HB 678 DO PASS.
{Tape : 3; Side : A; Approx. Time Counter : 26.4}

Motion/Vote:

Rep. Story MOVED technical amendments. EXHIBIT(tah70a05) The **MOTION PASSED, 16 - 0.**
{Tape : 3; Side : A; Approx. Time Counter : 27.4}

Motion:

Rep. Story MOVED amendments. EXHIBIT(tah70a06)
{Tape : 3; Side : B; Approx. Time Counter : 1.9}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 7.6}

Vote:

The MOTION PASSED, 16 - 0.
{Tape : 3; Side : B; Approx. Time Counter : 6}

Motion:

Rep. Harper MOVED a conceptual amendment to remove the sunset provision.
{Tape : 3; Side : B; Approx. Time Counter : 6.6}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 7.6}

Vote:

On a voice vote, the **MOTION PASSED**, 16 - 2. Rehbein and Somerville voting no.
{Tape : 3; Side : B; Approx. Time Counter : 7.6}

Motion:

Rep. Story MOVED HB 678 DO PASS AS AMENDED. The MOTION PASSED unanimously, 20 - 0.
{Tape : 3; Side : B; Approx. Time Counter : 27.3}

EXECUTIVE ACTION ON HB 240 (CONTINUED)

Motion:

Rep. Jackson MOVED a conceptual amendment which would raise the percentages and make the bill more attractive.
{Tape : 4; Side : A; Approx. Time Counter : .6}

Discussion:

{Tape : 4; Side : A; Approx. Time Counter : 3}

Substitute Motion/Vote:

Rep. Orr MOVED to TABLE. The MOTION FAILED, 12 - 8. Schmidt, Guggenheim, Jackson, Harrington, Dale, Somerville, Erickson, Beck, Harper, Raney, Gillan and Hibbard voting no; Story, Orr, Holden, Rose, Rehbein, Davies, Fuchs and Hanson voting yes.
{Tape : 4; Side : A; Approx. Time Counter : 8.8}

Discussion:

{Tape : 4; Side : A; Approx. Time Counter : 9.9}

Motion/Vote:

Rep. Erickson MOVED a conceptual amendment to strike the coordination instruction. The MOTION FAILED, 10 - 10. Story, Orr, Holden, Rose, Rehbein, Davies, Fuchs, Harper, Hanson and Raney voting no; Schmidt, Guggenheim, Jackson, Harrington, Dale, Somerville, Erickson, Beck, Gillan and Hibbard voting yes.
{Tape : 4; Side : A; Approx. Time Counter : 12.8}

Vote:

The MOTION FAILED to adopt Rep. Jackson's conceptual amendment, 10 - 10. Story, Orr, Holden, Rose, Rehbein, Davies, Fuchs, Harper, Hanson and Hibbard voting no; Schmidt, Guggenheim, Jackson, Harrington, Dale, Somerville, Erickson, Beck Raney, and Gillan voting yes.
{Tape : 4; Side : A; Approx. Time Counter : 17.3}

Motion/Vote;

Rep. Orr MOVED to TABLE. The MOTION FAILED, 11 - 9. Schmidt, Guggenheim, Jackson, Harrington, Dale, Erickson, Beck, Harper, Raney, Gillan and Hibbard voting no; Story, Orr, Holden, Rose, Somerville, Rehbein, Davies, Fuchs and Hanson voting yes.
{Tape : 4; Side : A; Approx. Time Counter : 19.5}

Motion/Vote:

A MOTION was made to REVERSE THE TABLE VOTE and pass the bill as previously amended. Schmidt, Guggenheim, Jackson, Harrington, Dale, Erickson, Beck, Harper, Raney, Gillan and Hibbard voting yes; Story, Orr, Holden, Rose, Somerville, Rehbein, Davies, Fuchs and Hanson voting no.
{Tape : 4; Side : A; Approx. Time Counter : 20}

EXECUTIVE ACTION ON HB 665

Motion/Vote:

Rep. Gillan MOVED to remove HB 665 from the table. The MOTION PASSED, 11 - 9. EXHIBIT(tah70a07) Schmidt, Rose, Gugenheim, Harrington, Dale, Erickson, Beck, Harper, Raney, Gillan and Hibbard voting yes; Story, Orr, Holden, Jackson, Somerville, Rehbein, Davies, Fuchs and Hanson voting no.
{Tape : 4; Side : A; Approx. Time Counter : 22.8}

Discussion:

{Tape : 4; Side : A; Approx. Time Counter : 28.1}

Motion:

Rep. Guggenheim MOVED DO PASS AS AMENDED. EXHIBIT(tah70a08)
{Tape : 4; Side : A; Approx. Time Counter : 28.5}

Discussion:

{Tape : 4; Side : B; Approx. Time Counter : 1}

Vote:

The **MOTION FAILED**, 10 - 10. Story, Orr, Holden, Rose, Dale, Somerville, Rehbein, Davies, Hanson and Hibbard voting no; Schmidt, Guggenheim, Jackson, Harrington, Erickson, Beck, Fuchs, Harper, Raney and Gillan voting yes.
{Tape : 4; Side : B; Approx. Time Counter : 11.3}

Motion/Vote:

Rep. Story MOVED to TABLE. The **MOTION PASSED**, 11 - 9. Story, Orr, Holden, Rose, Jackson, Dale, Somerville, Rehbein, Davies, Hanson and Hibbard voting yes; Schmidt, Guggenheim, Harrington, Erickson, Beck, Fuchs, Harper, Raney and Gillan voting no.
{Tape : 4; Side : B; Approx. Time Counter : 13.3}

Adjourn. ***{Tape : 4; Side : B; Approx. Time Counter : 15.2}***

ADJOURNMENT

Adjournment: 11:45 A.M.

_____
REP. CHASE HIBBARD, Chairman

_____
DONNA GRACE, Secretary

CH/DG

EXHIBIT(tah70aad)

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on April 12, 1999 at 8:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:
Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Alvin Ellis Jr.(R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: Sen. Jon Ellingson (D)

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 174, 4/1/1999; HB 540, 4/1/1999; HB 678, 4/1/1999
Executive Action: HB 658; HB 661; HB 174

HEARING ON HB 678

Sponsor: REPRESENTATIVE ROBERT R. STORY JR., HD 24, PARK CITY

Proponents: Madalyn Quinlan, Office of Public Instruction
Rod Sundsted, Commissioner of Higher Education
Harold Blatty, Montana Association of Counties
Jim Reno, Yellowstone County Commissioners
Judy Paynter, Department of Revenue

Mike Kadas, Mayor, Missoula
Alec Hansen, Montana League of Cities and Towns
Russ Ritter, Montana Resources
Evan Barrett, Montana Economic Developers Association
Tim Burton, Lewis and Clark County
Tom Daubert, Montana Association of Oil, Gas and Coal Counties
Colleen McCarthy, Mayor, Helena
Jim Peterson, Montana Stock Growers Association
Gloria Paladichuk, City of Glendive and Richland County Economic Development Association
Aaron Rudio, D. A. Davidson & Company
Rody Holman, Butte-Silver Bow
Chris Gallus, Montana Chamber of Commerce
Jane Jelinski, Montana Association of Counties
Bob Gilbert, Rosebud County

Opponents: **None**

Opening Statement by Sponsor:

REP. BOB STORY, HD 24, PARK CITY, said this bill came out of a subcommittee of the House Taxation Committee to deal with the reimbursement to counties and schools for revenues that they will be short as a result of the several tax relief bills that have been moved through this session. He said the tax relief provided will cause a lot of change in the tax base in the counties and school districts, and this is a unified reimbursement plan to deal with that, including **HB 20** and **SB 417.**

REP. STORY said **HB 678** is a broad-ranging bill for two reasons: 1) to try to get a unified system of reimbursement, and 2) to cover as many things as possible in this bill. He said if some of them were discarded along the way, that would be fine. It is a lot easier to take things out of a bill than to put them in.

REP. STORY handed out a sheet entitled "Local Government and School Reimbursement Methodology, March 23, 1999," **EXHIBIT(tas79a01).** He said this demonstrates how reimbursements will be handled for counties and cities in the left-hand column, with schools on the right side, as well as countywide transportation and countywide retirement.

REP. STORY then distributed a handwritten sheet which demonstrated a plan for reimbursement, **EXHIBIT(tas79a02).** He said this idea gets most of the schools off of the property tax base and leaves the property tax base in local governments. He

said that would still put motor vehicle taxes into schools, and the rest of the reimbursement money would then be put into the guaranteed tax base and leave the countywide mills for retirement, transportation, and the county and city government mills can increase back to budget. There would still be a net reduction to taxpayers, but counties and local governments would be on a property tax base rather than reimbursement. He said $70 million to $100 million need to be reimbursed. **REP. STORY** said there is a problem with mill caps in some areas, and a plan to allow those to float is in the works.

REP. STORY said there is a 1.5% growth factor in the reimbursement for county and local governments. It is calculated back to a 1998 base to reimburse for the year 2000, and then it is increased 1.5% a year to get to the reimbursement for year 2000. In 1999, the base is calculated and then increased 1.5% a year. To get that figure, you take the 1998 base and multiply it by 102.25. He said originally there was a two-year sunset on local government reimbursement so the **HB 622** study committee would be able to perhaps come up with another idea. That bill has been changed, so the sunset was taken off in House Taxation Committee on the first two sections of the bill. At the top of page 3 is the subcommittee's attempt to carry this bill into the following biennium. He said the base year needs to be checked.

Proponents' Testimony:

Madalyn Quinlan, Office of Public Instruction, said it is important that schools and local governments be reimbursed for the dollars that they will be losing as a result of the various property tax relief bills that are going through this session. She said school districts and educators are particularly concerned about how the tax shifts will affect residential property taxpayers upon whom they rely for their budgets.

Ms. Quinlan said there are four key points to this bill and how it affects schools: 1) motor vehicle fees are proposed to be replaced for school districts through the direct state aid formula; 2) the property tax reductions are compensated through the Guaranteed Tax Base Aid formula for school district general funds and for the county retirement fund; 3) the bill reimburses for county transportation by increasing the state's share of the unscheduled transportation costs; and 4) the bill replaces revenue to school district funds, other than the school district general fund, through a block grant proposal.

Ms. Quinlan said the Department of Revenue is suggesting amendments which will push everything through the General Fund, and OPI would support that as well.

Rod Sundsted, Montana University System, asked that as this bill is being considered, the university six mill levy account, although it is understood that it is the intent to backfill that revenue, currently that is not in **HB 678.** That is a significant amount of money for the University System, and if the six mill levy account is short, they do not have the revenue to fund the operating budgets approved by the legislature. He distributed a proposed amendment, **EXHIBIT(tas79a03).**

Harold Blatty, Montana Association of Counties, urged support for **HB 678.** He said it is the long-awaited reimbursement bill that local governments have been eagerly waiting to see. He said they are in support of other actions taken by this legislature, and this will pull it all together and allow local governments to have the revenues they need to carry out their duties.

Jim Reno, Yellowstone County Commissioner, he said he applauds the legislature for providing tax relief as promised, and he also commended them for keeping their word in backfilling those counties that will be losing tax base. He urged do pass for **HB 678.**

Judy Paynter, Department of Revenue, said the Department strongly supports the reimbursement bill for local governments and schools. She said the Department has been working with the House Tax subcommittee that has been working on reimbursement and trying to find the simplest way to do that reimbursement so that there is not a lot of time spent administratively shuffling numbers. The Department is very supportive of having one method for reimbursement and making it as simple as it can possibly be.

Mike Kadas, Mayor, Missoula, distributed an exhibit with pie charts which demonstrated Fiscal Year 1999 General Fund expenditures on the front page and 1999 General Fund revenues on the back page, **EXHIBIT(tas79a04).** He said over half of the City's tax base is either frozen or declining, and that is why **HB 678** is so important. He said he favors keeping the sunset off. He said the 1.5% yearly increase may not be enough, since it does not come close to inflationary percentages which have an effect on wages.

Finally, **Mayor Kadas** said he is most concerned about the first two pages of this bill, the reimbursement mechanism for local governments. This basically says that it is very complicated and the legislature is leaving it to the Department of Revenue to figure out. He said he can live with that. He said Department of Revenue has proposed a reimbursement mechanism which puts most of the reimbursement back to schools and then allows local governments to increase their millage in order to make up their

losses. He said Missoula's charter has a **I-105** cap, and under that mechanism, they would have to go over that cap. Billings also has a similar clause in their charter. He said this makes these cities more dependent on the property tax. He said for dealing with local governments over the long term, they really want to get away from **HB 20** and **SB 417** type mechanisms. He said those put local governments in a bind over time. They need a revenue stream that actually grows. The local governments had suggested early on in this process they figure out what the losses are, figure that dollar amount as a percentage of the income tax, and then allocate that percentage of the income tax to local governments. All local governments would be made whole by dollar amount.

Alec Hansen, Montana League of Cities and Towns, said his organization supports **HB 678**. He said in his 18 years with the League of Cities and Towns, he has never seen a bill that was more important to local governments than **HB 678**. He said this bill is based on the premise that the legislature understands the needs of local governments. It makes the connection between the legislature's authority to cut taxes and the legislature's responsibility to assure adequate funding for local governments.

Russ Ritter, Montana Resources, said that the Senate passed **HB 420**, which allows the mining industry to eliminate the transportation cost as a part of the tax base. In negotiating this with Butte-Silver Bow and the Butte School District, Montana Resources agreed that they would help them in some way to try and make up the resulting loss to them. He said for that reason, Montana Resources favors **HB 678**.

Evan Barrett, Butte Local Development Corporation and the Montana Economic Developers Association, said they support **HB 678**. He said it is a really important thing to see the legislature committing to long-term reimbursement on the hits that come with the good policy changes that reduce the tax base. He reminded the committee of the needs of tax increment districts, and said they support the removal of the sunset provision.

Tim Burton, Chief Administrative Officer, Lewis and Clark County, said that **HB 678** is the most important bill before this session. He said it is critical for local governments to be able to provide at an adequate level the infrastructure necessary, and it rolls into economic development and jobs. **HB 678** also provides stability for budgeting and planning. He urged support.

Tom Daubert, Montana Association of Oil, Gas and Coal Counties, an association of the 33 counties which are home to development and production for oil, gas and/or coal industries, said his 99

county commissioners asked him to support this bill, but also asked him to emphasize that **HB 678** does not cover nor attempt to cover significant revenue losses to those 33 counties embedded in other pieces of legislation which have caused revenue loss to these counties because of tax breaks to these industries.

Colleen McCarthy, Mayor, Helena, said she concurred with **Mayor Kadas** and **Alec Hansen** in their suggestions. She said without reimbursement to local governments for losses in tax revenues resulting from some of the legislation passed in this session, local governments cannot provide needed services. Local governments are encouraged by the long-range aspect of **HB 678,** and she urged support.

Jim Peterson, Montana Stock Growers Association, said this type of legislation is greatly needed, but he is not convinced that the formula in **HB 678** is the right way to go, because 1) with the motor vehicle fee and reimburse back to the counties on a per-student basis, there will be a shift from rural counties to the urban counties, and 2) when the cap is taken off the local mill levies, the only way a county can make up that difference is to raise the mill levy. With **SB 200** in place, the only way that can be done effectively in a rural county is to put that on agricultural land.

Gloria Paladichuk, Richland Economic Development and the City of Glendive, said the tax relief packages provided by this legislature will only be true tax relief if local governments are fully reimbursed for the lost revenues. She said if local governments are not kept whole and mills have to be raised locally to pick up the lost revenue, the properties that will be most affected in eastern Montana will be agricultural land, the very taxpayers that the legislature is trying to help. She urged support for this legislation.

Aaron Rudio, D. A. Davidson and Company, said his company is a frequent underwriter of bonds issued by local governments in Montana, because it is essential to ensure the good credit quality of local governments both in terms of their general financial viability and in terms of their ability to meet their ongoing obligations for indebtedness, such as general obligation bonds, and short-term debt as well, he would urge the committee to consider the amendments which have been presented to the Governor's office and staff and Department of Revenue which would also extend the protection of **HB 678** to tax increment districts which are currently unprotected absent the passage of this bill.

Rody Holman, Economic Development Director, Butte-Silver Bow, said he supports **HB 678.** He said there are some amendments

floating around for this bill, and he asked the committee to look favorably upon those amendments. He provided a handout entitled "Tax & Tax Increment Flow in BSB TIFID #2," **EXHIBIT(tas79a05).** He urged passage of **HB 678** with the amendments associated with tax increment districts.

Chris Gallus, Montana Chamber of Commerce, said it is a good idea to provide the reimbursement for tax revenue losses involved in the various tax relief bills that have been passed. He urged support of **HB 678.**

Jane Jelinski, Montana Association of Counties, said her organization thanks **REP. STORY** and this legislature for recognizing that cities and counties are the direct providers of critical services that protect the public health, safety and welfare of all Montana citizens. She urged support for **HB 678.**

Bob Gilbert, Rosebud County, said they support the concept of **HB 678;** however, they urged the committee to pay close attention to **Mr. Peterson's** comments regarding the effect on agricultural land.

Opponents' Testimony: None

Questions from Committee Members and Responses:

CHAIRMAN DEVLIN said there had not been any testimony about applying a growth factor in here as far as new construction and new tax base that would come in. He asked if **Mayor Kadas** had any comment. **Mayor Kadas** said Missoula County does have new construction. He said Missoula levies about $10 million of taxes, they are one of the fastest growing places in Montana, and they have about $250,000 in new revenue because of growth. He said with that growth, additional services must be provided. He said it is a component of the whole package. He said new growth does not offset inflation, and there are lots of places in the state that do not have any new growth at all. **CHAIRMAN DEVLIN** asked if the formula on page 3 of **HB 678,** which is the 1.5%, should be adjusted according to the growth in a specific taxing jurisdiction, and **Mayor Kadas** said no, because when there is new growth, additional services must be provided. **CHAIRMAN DEVLIN** asked if he thought dollar-for-dollar would be better, and **Mayor Kadas** said that they try to plan for new construction in areas where services and infrastructure is already provided, but there are a number of studies which show that new growth actually costs more.

SEN. BOHLINGER asked if **Mayor Kadas** could explain the reimbursement formula that he had testified about that would tie the growth and the income tax payments. **Mayor Kadas** said this would apply only to local governments. He said you would figure out what the total tax loss was because of changes that have been made, and use that figure as a percentage of the total anticipated income taxes, so the law dedicates that percentage of income tax collections to cities and counties. That creates a pool of dollars, and that is distributed back to local governments based first on what they have lost because of the tax breaks, so everyone is held even, and then theoretically that tax base will grow each year and that percentage would continue to be distributed each year to the local governments strictly on population.

SEN. BOHLINGER asked if an amendment had been prepared to achieve this sort of redistribution. **Mayor Kadas** said they had not prepared the amendment, but he said he would be glad to participate in creating a mechanism that would accomplish that.

SEN. ECK asked if someone could provide the committee with some of those studies that illustrate the cost of growth, and which demonstrate that the additional tax does not cover the cost of the growth. **Jane Jelinski** said she would provide that information.

SEN. ELLIS said that it had been alluded that the Department of Revenue has amendments, and he wondered if they were available for the committee. **Judy Paynter, Department of Revenue,** said the Department does not have amendments prepared for distribution at this point, but they are endeavoring to see what would happen if the reimbursements were put back through the school-based program, direct state aid and guaranteed tax base. She said the reason for that is that administratively it would be a very simple adjustment because it would be using a mechanism that is already available.

SEN. ELLIS said this bill as it is currently takes two other bills out of existence that also reimburse local taxing jurisdictions, and **Ms. Paynter** said that was correct, **HB 20** and **SB 417**.

SEN. ELLIS asked if those bills use different mechanisms which would be more complicated, and **Ms. Paynter** said that **HB 20** is a different mechanism than **SB 417**, so there are two mechanisms. The Department is not very interested in having two existing mechanisms and the potential for four or six new mechanisms, each individually different. So it is the Department's desire to have one methodology.

SEN. ELLIS said **SB 260** has already been signed by the Governor, and to an extent it reimburses by changing the flow of the 40 mills. He wondered if this bill could change that. **Ms. Paynter** said she hoped that there could be changes in this reimbursement bill which would affect other bills which have reimbursement mechanisms in them to bring them into one.

SEN. GLASER asked how soon the Department could provide information to the committee regarding this matter, and **Ms. Paynter** said the Department has some preliminary information and she estimated that by 4:00 p.m. they would have the information available.

SEN. BOHLINGER said concerns had been expressed regarding tax increment financing districts and the need to protect bondholders from default. He wondered if amendments had been prepared to accomplish that. **REP. STORY** said as far as he knew, they had not been prepared, although some of the proponents said they had those amendments in the works.

SEN. DEPRATU asked in regard to the local option tax bill, if this might have a positive or negative impact in relationship to **HB 678**. **Mayor Kadas** said this is a much-needed alternative and he appreciated the opportunity that that allows cities, but it is the kind of thing that will be reacted to differently in different areas.

SEN. ECK said there are other bills out there where smaller amounts of revenue is lost to local government, and she wondered if it was the intent that these all be included in this bill. **REP. STORY** said this bill was created to take care of the big items, and depending on how the calculations are being done, this bill could cover everything that is lost.

Closing by Sponsor:

REP. STORY said this is a lengthy and complicated bill. He said his intent was to reimburse local governments and schools, because if reimbursement is not provided for tax revenues lost through tax relief such as has been provided this session, it simply shifts the taxes. He said he would be glad to work with the committee in creating a reimbursement mechanism that would work for local governments and schools.

CHAIRMAN DEVLIN appointed a subcommittee to study this matter consisting of SEN. GLASER, chair, with SEN. DEPRATU and SEN. STANG.

EXECUTIVE ACTION ON HB 658 AND HB 661

SEN. ELLIS reported that the subcommittee had decided to leave the bills separate, because one increases the limit on what is considered stripper wells and the other deals with exemptions. Both bills have thresholds. The subcommittee had decided to leave the threshold as it is in current law, which is $30, and then all stripper legislation is not in effect and they pay current rates for wells greater than strippers. Regarding distribution, he said currently on wells that are between four and ten barrels a day, one-half of the money goes to the state and one-half goes to local governments; and inasmuch as what will be left if that bill passes will be only the amount that is going to local governments, the subcommittee changed the direction of that money so that it all goes to local governments.
Mr. Heiman provided copies of the proposed amendments HB065801.alh, **EXHIBIT(tas79a06)**. He said **HB 658** is the bill that discusses the wells that produce three barrels or less. The subcommittee decided to make the uniform $30-a-barrel provision, and that is what this amendment does in the first five amendments. Amendment No. 6 sets the rates at .5% and 14.8%, which coordinates with **HB 661**. He said the way the bill is slightly amended in No. 7, it works right into **SB 530**, so if that passes, this amends the same sections so it will all mesh.

Mr. Heiman then provided amendments for **HB 661**, **EXHIBIT(tas79a07)**. He said this also sets the uniform provision for $30 a barrel, and it includes the coordination with the stripper well exemption in **HB 658**. He said in amendment No. 4, it should be 5.5% and 14.8%, and 9.0% and 14.8%, and that will have to be changed. This provides that barrels zero through ten are at 5.5% and 14.8% and then barrels ten to fifteen are at 9.0%. There is also the change to the $30-a-barrel and 15-barrels-a-day definition, so if the oil goes above $30 a barrel, there is no longer a stripper rate.

Motion/Vote: **SEN. ELLIS moved AMENDMENT HB065801.ALH. Motion carried 7-0.**

Motion: **SEN. ELLIS moved AMENDMENT HB066102.ALH.**

Discussion:

SEN. ELLIS asked which amendment redirects all the money to local governments, and **Mr. Heiman** said the way it works now is in subsection (9), the first ten barrels go to the local government.

Vote: **Motion carried 8-0.**

Motion: **SEN. ELLIS moved that HB 661 and HB 658 BE CONCURRED IN AS AMENDED.**

Discussion:

SEN. ECK said she will vote for this bill, but she encouraged the committee to be sure that these changes are part of the reimbursement.

SEN. ELLIS said that as amended, this bill won't affect the local tax base below ten barrels, but above ten barrels they will be affected some. **CHAIRMAN DEVLIN** asked if the Fiscal Note should reflect less impact for local governments, and **SEN. ELLIS** said it should be less for local governments and more for General Fund.

Vote: **Motion carried 8-0. SEN. ELLIS** will carry the bill.

HEARING ON HB 174

Sponsor: **REPRESENTATIVE CHASE HIBBARD, HD 54, HELENA**

Proponents: **Jerome Anderson, PP&L Montana**
Dennis Burr, Montana Taxpayers Association
Tom Ebzery, Pacificorp, Puget Sound Energy, Portland General Electric, Avista Corp.
Russ Ritter, Montana Resources
Neil Colwell, Avista Corp.
Ernie Kindt, Montana Power Company
Mike Uda, ASARCO
Bob Gilbert, Rosebud County
Chris Gallus, Montana Chamber of Commerce
John Alke, MDU Resources

Opponents: **None**

Opening Statement by Sponsor:

REP. CHASE HIBBARD, HD 54, Helena, said this bill started in the 1997 session with some discussions about inevitable tax implications having to do with the passage of **SB 390**. This resulted in the deregulation of generation, and in so doing, we have joined 16 other states around the country, covering 50% of all electric consumers who now have choice and some form of deregulation. **SB 390** directed the Revenue Oversight Committee to analyze the tax implications of restructuring and report to this legislative session. That committee found that 1) hidden taxes impede efficient, competitive production. He said in Montana 10.6% of a utility bill is state and local taxes. He said

Montana's antiquated tax structure distorts free-market competition. If we are noncompetitive, we face erosion of our market share and the subsequent erosion of our tax base as well.

REP. HIBBARD said the Revenue Oversight Committee also focused on the tax principles, the most important of which was competitive neutrality. Meeting a goal of competitive neutrality would mean that tax policy would not affect the consumer's choice when affecting the price.

REP. HIBBARD said this bill was originally submitted by the Revenue Oversight Committee, it changed on the eve of the first hearing, it changed again before executive action. It was tabled and was changed again to accommodate all the concerns that had developed during that course of events. One of the large concerns was that a kilowatt hour tax was imposed on consumers, and it was eliminated in the final draft. This particular bill taxes imports and exports of power, which was a concern previously. It addresses the concerns of the large industrial consumers who were getting hit very hard under the kilowatt hour tax, and the whole energy transmission tax in this bill amounts to about one-sixth of what the kilowatt hour tax was. It also addresses the philosophical concerns that were addressed by the co-ops, in that the WET tax should be included in the bill.

REP. HIBBARD explained that **HB 174** reduces the tax rate on electric generation facilities from 12% to 6% and establishes a new class, class thirteen, for electric generation and also the assets of telecommunications that are going to 12% to 6%. Transmission and distribution will remain regulated and will stay at a 12% rate. The generation tax will continue as it was previously, which raises approximately $4.6 million per year. The WET tax will be imposed upon the owner of electricity that is transmitted on nonfederal transmission lines at a rate of 0.015 cents per kilowatt hour, which should raise $3.5 million to $4 million per year.

REP. HIBBARD said that the generator who exports from the state will pay the tax on that electricity. The distribution services provider, who is the local utility, pays the tax on all electricity that comes into his local distribution system. There is some electricity that is exempt from this WET tax: 1) the electricity purchased by rural electric cooperatives unless they have elected to compete, 2) electricity transmitted through the state that is neither produced nor delivered in the state, 3) electricity generated in the state by an agency of the federal government for delivery outside the state, and 4) electricity delivered to the Columbia Falls Aluminum Company. He said the collector of the WET tax is the owner of the transmission line.

If electricity is transmitted over more than one system, the last service provider to transmit the electricity will collect the tax, and it will be collected quarterly. He said there is also a provision in the bill to make whole local taxing jurisdictions.

REP. HIBBARD said an amendment posed by **REP. HARRINGTON** would exempt the purchases of AsiMI in Butte from the WET tax, because the contract was negotiated previous to this new tax, and this will expire when the contract is up. Any renegotiated contract would be subject to the new tax.

REP. HIBBARD said there is an amendment prepared by Jeff Martin and Lee Heiman which simply clarifies the reimbursement language and will allocate the centrally assessed telecommunications companies to this new class thirteen. He also said the Fiscal Note is inaccurate and he had not signed it. When the amendments are added, a new Fiscal Note can be prepared.

Proponents' Testimony:

Jerome Anderson, PP&L Montana, provided a handout entitled "Montana Tax and Transmission Cost Benchmarking," **EXHIBIT(tas79a08).** He said PP&L Montana will be a local company headquartered in Billings, Montana, and will purchase and operate all the power generating facilities in Montana and Wyoming operated by the Montana Power Company, except the facility at Milltown. He said the classification of these facilities must be moved to the new class thirteen as provided for in **HB 174** because they need the reduction of the tax rate from 12% to 6%. He said his handout demonstrates the comparative tax rates in this area of the country. He urged support.

Dennis Burr, Montana Taxpayers Association, distributed a sheet which demonstrated what they consider to be the fiscal impact of **HB 174** with the amendment, **EXHIBIT(tas79a09).** He said there was some language in the bill which required the Department of Revenue to use the wrong base value in calculating the difference between the tax at 12% and 6%, and with that amendment, these numbers are what you would see in a Fiscal Note. It reflects that the impact will be approximately $3.4 million yearly.

Tom Ebzery, Pacificorp, Puget Sound Energy, Avista Corp., Washington Water Power, and Portland General Electric, said that these four entities, along with Montana Power Company, own the units at Colstrip. He said they had appeared before this committee on **SB 85** because they had problems with the wholesale energy transaction tax. He said he believes that the collection mechanism has been modified significantly, and they are in support of this legislation.

Russ Ritter, Montana Resources, said they were opposed to this legislation in its initial state; however, since the time the various negotiations have taken place, they now feel it is a good piece of legislation and they support it.

Neil Colwell, Avista Corp., reminded the committee that they had had some issues and concerns with the WET tax in **SB 85,** but they feel they can support the concept that has been put into **HB 174.** He walked the committee through the mechanism of this bill. Page 3, Section 4: (a) sets out that transmission will be taxed at .015 cents per kilowatt; (b) states that generators pay the WET tax on generation that is exported outside of the state; (c) and (d) deal with electricity produced in the state or imported into the state for delivery to the distribution service providers; (e) sets out that the cooperative that has opted into competition will pay the WET tax on the energy that is delivered to those customers that are subject to competition; (f) is similar to (e) and clarifies which organization would pay the WET tax.

Mr. Colwell went on to subsection (2) which gets to details of how this actually works, specifying that the last transmission company collects the tax; (b) sets out the circumstances where a distribution service provider would pay the tax; (c) provides that that energy will only be taxed one time. Subsection (3) contains the exemptions from this tax; Subsection (4) ensures that a distribution services utility that is regulated can go to the PSC and apply for a recovery of these tax rates in their rates; and Subsection (5) is a multi-state exemption.

Ernie Kindt, Montana Power Company, said MPC stands in support of this bill. He said Montana Power Company has worked for several years with the Department of Revenue and the legislature to try and correct the problem of excessive taxes on generation and to create competitive taxes. He said this bill goes a long ways toward correcting that problem.

Mike Uda, ASARCO, said they were in opposition of this bill in its original form; however, they now believe this is a good piece of legislation, and they support this compromise which really brought together a variety of different interest groups.

Bob Gilbert, Rosebud County, said that Rosebud County and the newly incorporated city of Colstrip are at ground zero in this whole process. He said they like the provisions which make their citizens and their taxpayers held harmless in this legislation.

Chris Gallus, Montana Chamber of Commerce, said they rise in support of **HB 174.**

John Alke, MDU Resources, said MDU may end up being one of the last utilities in Montana that actually owns its own generation. He said this bill respects and protects a very wide range of interests, including those of MDU.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. BOHLINGER asked, if **HB 174** is not passed, and if PP&L Montana were to have to pay the present rate of tax, whether they would have some second thoughts about completing the purchase of MPC operating assets, and **Mr. Anderson** said he could not speak for PP&L Global, but if that were to happen, it would be a tragic consequence for Montana.

SEN. STANG said in the sample Fiscal Note that **Mr. Burr** had provided, there was an increase in the WET tax of $1.8 million in 2000, and he wondered if that tax would be passed on to the electrical customers of the state or would it be eaten for that one year. **Mr. Burr** said that was a good question, but that he thought the industry would say it will be eaten every year because competitive forces are going to determine the price of electricity and they are no longer in the position as generators to be able to pass tax through.

SEN. STANG said that in 2001 there is a $3 million impact which would be an impact of $6 million per biennium, and **Mr. Burr** said that was correct. **SEN. STANG** asked, then, if that is part of the reimbursement process that is involved in the other bill, and **Mr. Burr** said that was also correct.

SEN. ELLIS asked if he understood correctly that this WET tax will not be paid by power transmitted on federal lines, and **REP. HIBBARD** said that was what he said. It will not be paid by the federal transmitter as a taxpayer, but it will be paid by the distribution services company, and they will self-assess and submit it. **SEN. ELLIS** asked if out-of-state entities will have to pay this tax, or will it be paid by the generator, and **REP. HIBBARD** said the generator pays it when it goes out of state. **SEN. ELLIS** asked what the rationale was that co-ops do not pay this WET tax, and **SEN. HIBBARD** said that the tax structure is entirely different for co-ops than it is for investor-owned utilities, and there are historical justifications for the tax rates that are applied to each entity. These distinctions have been maintained in this bill. **SEN. ELLIS** asked what percentage of power co-ops sell in this state, and **SEN. HIBBARD** said he did not know.

CHAIRMAN DEVLIN asked when the ASiMI contract is up, and **REP. HIBBARD** said that at the end of the duration of the present contract, this exemption goes away, and that will be in 2002.

SEN. STANG asked if **Mr. Colwell** could explain further Section 4 (5), the multi-state exemption. **Mr. Colwell** said this provides some basic Constitutional protections and it is forward looking. This allows a consumer to not be taxed twice on the transmission of electricity if other states adopt transmission taxes.

SEN. STANG said that as long as we are exporting the product to another state, there will not be a credit, and **Mr. Colwell** said that was correct. **SEN. STANG** said, then, if we are importing from another state, we have to pay the tax, and there will be a credit for imports but not exports, and **Mr. Colwell** said in the instance that this tax were being imposed in both states, that would be the purpose, to charge only one transmission tax on a purchase transaction. **SEN. STANG** said the tax credit is basically aimed at electricity imported into the state from another state that might have that tax, and that there will be nothing in this credit that will prohibit us from exporting our tax to other states. **Mr. Colwell** said the concept of exporting the tax becomes more difficult in a commodity market.

SEN. ECK asked what other states are doing for taxation, and whether they have taxes that they will try to impose on the transmission of energy in Montana. **REP. HIBBARD** said that some of the states are setting taxation before they deregulate, some are doing it at the same time, some are deregulating first and considering taxes secondly. California and Montana are among the latter. He said eventually all of our surrounding states will change some tax policies regarding the competitive electric markets. This bill is structured in the WET tax so that there will be credits given to eliminate dual taxation. **SEN. ECK** said there is a mechanism in this bill for reimbursing local governments, but she wondered if **HB 678** is going to override all of these mechanisms. **REP. HIBBARD** said this bill has a very definite reimbursement scheme to make whole local taxing jurisdictions.

SEN. ECK said there is a lot of talk about mergers and sales, and that in another ten years there might be only three giant companies in the U.S., but she wondered how the sale of PP&L Global might have an effect on the situation in Montana. **REP. HIBBARD** said we have to look at what is happening with generation assets around the country. It has been predicted that very large companies will end up owning generation because competition is going to be fierce and extreme and a company is going to have to

have very deep pockets and a huge balance sheet in order to be in this business. **SEN. ECK** asked if PP&L Montana would be considered a small company, and **REP. HIBBARD** said he was not familiar enough to know, but their parent company is a very substantial company.

CHAIRMAN DEVLIN said the sheet provided that shows what the Fiscal Note may look like after the bill has been amended showed the property tax reduction, and he wondered if that reflected the increased value of those properties. **Mr. Burr** said it does. It is the difference between the 12% tax on the old values and the 6% tax on the new values. **CHAIRMAN DEVLIN** then asked, where it is going to be a continued reduction of $3 million per year from 2001 and on, if there was any discussion about increasing the WET tax to cover that. **Mr. Burr** said it was the general opinion that it had been pushed just about as far as possible.

SEN. STANG said he noticed that this bill takes care of bonding provisions, but he wondered if those provisions were run by the State Bond Council to make sure they are sufficient. **REP. HIBBARD** said he did not know if they had been run by the State Bond Council, but they are consistent with the bonding provisions in other bills that have gone through that also address tax base. He said the security is still there no matter what tax rate exists. **SEN. STANG** asked if the bonding should be addressed in **HB 678**, and **REP. HIBBARD** said he felt the language is adequate, but the committee might want to double-check that.

SEN. STANG asked if it was the intent of PP&L to have their property assessed on the market value or will they come in later and appeal their taxes because they feel they should be assessed on the book value. **Mr. Paul Farr, the Financial Officer of PP&L Montana,** said it is the company's interpretation of existing law that the values that will be used for property tax assessment will be the fair value based on willing buyer/willing seller. **SEN. STANG** asked, then, if it was safe to assume that PP&L will not come in and appeal to the Department based on Montana Power's book value and would be willing to pay it on the market value. **Mr. Farr** said they would be willing to pay it in the initial year on the market value, but they would expect as their business develops within the state that they will be taxed on multiple bases.

SEN. STANG said that the $30 million capital gain that might be available to the state from this sale of MPC's generating assets has been discussed, and he wondered if MPC will pay that $30 million or will they do their best to see that they don't have to pay that. **Ed Bartlett, Montana Power Company,** said MPC does not

know exactly what their tax liability will be for the calendar year 1999, but if the sale were to close in 1999, as is hoped and expected, the proceeds that will be received from that sale do in fact increase their tax liability. There will be other occurrences within the year that will also increase that liability and some that will decrease it. **SEN. STANG** asked if **Mr. Bartlett** thinks that the Board of Directors of the Montana Power Company will do everything in their power to reduce their tax liability to as low as they can, and **Mr. Bartlett** said the tax exposure is one of the considerations that Montana Power, and any other prudent company, would make in making investments and making decisions, but that is not the driver. The driver is whether it is a correct business opportunity or not, and the tax liability flows from that.

David Wheelihan, General Manager, Montana Electric Cooperatives, said, in response to **SEN. ELLIS'S** question about the consumption of co-ops in the state, approximately 8% or 9% of the kilowatt hours generated or sold in Montana are used by electric co-ops, so the kilowatt hour tax will apply to those co-ops who open their system to competition consistent with the principles of **SB 390.**

Closing by Sponsor:

REP. HIBBARD said that if a co-op opts into competition under the terms of **SB 390,** they pay the same taxes. If they are not opting into competition, they don't pay it and they stay in the same tax structure as they were previously.

SEN. HIBBARD said he is no longer on the MPC board, but it is the job of any prudent business tax manager and board of directors to minimize taxes. They are not in the business of paying taxes. However, there is a common misconception about the $30 million on the MPC sale, and that is, people think that that money between the cost and the book value and what is received can be put in any investment, even though it is a sale of generation assets. That is not true. It falls within a very narrow definition that has to do with those generation assets, and he believes that this $30 million will probably materialize.

REP. HIBBARD also commented on whether or not the WET tax will be passed on. **Mr. Burr's** comment that if competition develops the way it probably will, it may end up being eaten and not be passed on to the consumer, but it is possible to pass it on, and it is also conceivable that it will be identified on the consumer's bill. On the average Montana customer's bill, it would amount to about $2 a year.

HEARING ON HB 540

Sponsor: **REPRESENTATIVE LARRY GRINDE, HD 94, LEWISTOWN**

Proponents: **Riley Johnson, NFIB**
Mike Foster, Montana Contractors Association
Brian Cavey, Montana Motor Carriers Association

Opponents: **Dave Burch, Jefferson County Weed District Coordinator**

Opening Statement by Sponsor:

REP. LARRY GRINDE, HD 94, Lewistown, presented the committee with an explanation of **HB 540, EXHIBIT(tas79a10).** He said this bill provides for a flat fee on motor vehicles.

REP. GRINDE distributed copies of an amendment, HB054003.agp, **EXHIBIT(tas79a11),** which transfers the GVW fees into the highway account. He then distributed HB054002.agp, **EXHIBIT(tas79a12).** He said that when the new car sales tax was backed out, a great portion of that money went to the highway fund, and in order to make that fund intact, this amendment directs that all those registration fees will be applied to the highway account. **REP. GRINDE** then provided copies of HB054004.agp, **EXHIBIT(tas79a13),** which is an amendment that shifts to the Montana Department of Transportation interest on the highway special revenue account of $1.2 million, and this comes pretty close to making that fund whole.

Proponents' Testimony:

Riley Johnson, National Federation of Independent Businesses, said this would be a welcome relief for the small business.

Mike Foster, Montana Contractors Association, said they support the bill with the amendments that were proposed by **REP. GRINDE.** He said they had learned that this bill was going to have a very bad effect on the Highway Trust Fund, and they appreciate **REP. GRINDE'S** willingness to work on solving that problem. These amendments will resolve that issue by providing the money needed to match the federal programs.

Brian Cavey, Montana Motor Carriers Association, said that with the addition of the amendments presented by the sponsor, his organization believes that this will be a very positive addition to the efforts of tax reform that are being accomplished by this legislature. He urged support.

Opponents' Testimony:

Dave Burch, Jefferson County Weed District Coordinator and Montana Weed Control Association of Weed District Supervisors, said there is one part of this bill that they feel will hurt the Noxious Weed Trust Fund; and that is, when a person buys a five-year plate, any vehicle after that certain time does not have to register or buy another plate again as long as that person owns that car. What will happen is the $1.50 on those vehicles will be lost, and that will be a significant impact on the Fund. He asked that the committee would give that issue consideration. He provided written testimony, **EXHIBIT(tas79a14).**

Questions from Committee Members and Responses:

SEN. STANG asked if the information on the second page of **REP. GRINDE'S** handout had been compared with **SB 260**, and **REP. GRINDE** said this bill is taken from **SB 260.** He said it was already signed, so every calculation in this handout takes into consideration **SB 260.**

SEN. GLASER said that in the first four-year fee, it is $195. He said there are some small cars that will be paying more than presently. He wondered if there was a possibility, during that first four years of having a slightly lower rate for those light cars. **REP. GRINDE** said that that was correct, there would be a few vehicles in that category that could possibly see an increase. He said it had been considered and it was finally decided to go with these three categories in spite of that.

CHAIRMAN DEVLIN asked if the weed districts' problem had been considered on the extended purchase of plates, and **REP. GRINDE** said they had talked to **Mr. Burch** but they had not come to any conclusions. However, the weed districts will pick that up in the first five years, and it could go into a fund that would accumulate interest.

SEN. DEPRATU asked if this only covered through one-ton vehicles, and **REP. GRINDE** said that was correct.

SEN. GLASER said that **Mr. Gillett** had put a lot of figures together for the various people working on the vehicle tax, and he wondered what he had to say about the weed district problem. **Jim Gillett, Legislative Audit Division,** said that they had analyzed the population of older motor vehicles and found that through attrition and those that are sold, the average turnover on a vehicle 11 years old and older is five years. That would mean if you take five times the weed fee and put it in the Noxious Weed Fund, it would be a wash. The gain to the weed fund

would be if they chose to invest that money and let it earn more money.

SEN. STANG asked if any kind of assessment had been done on how many winners and losers there will be under each fee category, and **Mr. Gillett** said he was not sure they had done that on this version. He said the problem is that the base now is **SB 260**, and as we move forward into 2000 and use base **SB 260** and then move forward into 2001 to do the comparisons of **SB 260** to this bill, you begin to have to theorize on what is going to happen with the MSRP on new vehicles and what the demographics are going to be. He said at this point they had not done that, but they could take a stab at it. **SEN. STANG** asked how long that might take, and **Mr. Gillett** said it would probably take 48 hours. **SEN. STANG** asked if they could get that information to the committee as quickly as possible. **CHAIRMAN DEVLIN** said he was going to request a new Fiscal Note on this because it had been amended extensively.

SEN. EKEGREN asked **SEN. GLASER** to refresh his memory on the impacts of **SB 260**. **SEN. GLASER** said it depends upon whether you look at the General Fund hit or the local government hit. Once it phases in completely, there could be as much as $39 million a year or two years out total impact.

SEN. ELLIS asked if the Fiscal Note is based on **SB 260**, and **REP. GRINDE** said it is because **SB 260** is current law.

CHAIRMAN DEVLIN said the Fiscal Note has a 2/15 date on it, and he wondered how it could be based on **SB 260** if it was created on that date. **Brian Smith, Department of Revenue**, said the Fiscal Note available to the committee today is based on the as-introduced bill. **CHAIRMAN DEVLIN** asked how long it would take the Department to get new figures out on a new Fiscal Note, and **Mr. Smith** said if the amendments are not too complicated, they could probably have that together by the end of the day.

REP. GRINDE said he had a 4/9/99 Fiscal Note available today, so that would reflect how it came out of the House. **CHAIRMAN DEVLIN** said that with these amendments, there would be another reflection, and **REP. GRINDE** said that was correct.

CHAIRMAN DEVLIN asked **Mr. Gillett** if he had any further comments, and **Mr. Gillett** said when **SEN. STANG** asked his question, he asked for numbers of vehicles for winners and losers, and although that has not been done, he does have a chart that makes some projections as to the averages, **EXHIBIT(tas79a15)**. **SEN. STANG** said **REP. GRINDE** had shown those averages in his computations, but he said when something is revenue neutral, it is an average.

He said he would like to know the numbers of winners and losers because the Department had said there would not be many losers, and he would like to know the numbers above and below the average. **Mr. Gillett** said he would provide that information.

Closing by Sponsor:

REP. GRINDE said he hoped that this bill could be changed to accommodate these questions because he felt it was a good bill and needed to be passed.

EXECUTIVE ACTION ON HB 540

Motion/Vote: SEN. STANG moved AMENDMENT HB054004..APG. Motion carried 8-0.

Motion/Vote: SEN. STANG moved AMENDMENT HB054002.APG. Motion carried 8-0.

Motion/Vote: SEN. STANG moved AMENDMENT HB054003.APG. Motion carried 8-0.

EXECUTIVE ACTION ON HB 174

Motion: SEN. DEPRATU moved AMENDMENT HB017412.AJM, EXHIBIT(tas79a16).

Discussion:

SEN. DEPRATU said this is an amendment that takes care of a timing issue and keeps rural people under the co-op in the purchasing and exchange that went on up in the Flathead area. He said it keeps the people who are in the metro area and the incorporated cities still paying the tax, but keeps the co-op people in the rural areas from being impacted negatively.

CHAIRMAN DEVLIN asked if this had been perused by the affected parties, and **SEN. DEPRATU** said it had.

SEN. ELLIS asked what the impact of this amendment was, and **SEN. DEPRATU** said it was about $142,000 impact for the WET tax.

SEN. STANG asked if the WET tax applied to the people in the Kalispell area, or to people all over the state, and **SEN. DEPRATU** said Kalispell was the only place because of the date specific, May 2, 1997. They got caught in the middle on this, and this resolves that matter.

SEN. STANG asked if someone could explain the effects of how they got caught in the middle and why. **Dave Wheelihan, Manager, Montana Electric Cooperatives,** said Flathead Electric purchased Pacificorp facilities in the Flathead Valley. They rolled approximately two-thirds of those members into their cooperative, but there was about one-third of the old Pacificorp members that they could not because of existing state law that if they formed a separate subsidiary that is regulated by the Public Service Commission, for those members, that is Whitefish, Kalispell and Columbia Falls, those people will be subject to the WET tax, but the two-thirds members that were rolled into the cooperative with this date change would be treated in the same manner as everybody else in the cooperative.

SEN. STANG asked if this amendment only affects the one-third that weren't in the co-op, and **Mr. Wheelihan** said it affects the two-thirds that are in now. He said the one-third was always subject to the WET tax because it is a fully regulated subsidiary. This affects the two-thirds that were rolled into the co-op. That co-op has opened up, and if those members chose, this WET will apply; so the fiscal impact could even be less than estimated.

SEN. STANG asked if they were in the process of opening up, and **Mr. Wheelihan** said they were.

Vote: Motion carried 8-0.

Mr. Heiman said HB017401.alh, **EXHIBIT(tas79a17),** are the amendments mentioned by **REP. HIBBARD** that correct the distribution formula, 1 through 8. Amendment No. 9 on the second page is the coordinating instructions to **HB 128** which also changed the personal property on telecommunications property, and this melds the two class thirteen properties together in case both bills pass. On page 3, the new Section 35 is a coordination instruction with **HB 128** which passed out of this committee totally unamended. This amendment cleans up the contingent voidness provision in **HB 128.**

Motion/Vote: SEN. STANG moved AMENDMENTS HB017401.ALH. Motion carried 8-0.

Motion: SEN. EKEGREN moved that HB 174 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. STANG said he was going to vote against it today even though he may vote for it on the floor. He said he felt he needed a little more time to study it.

SEN. GLASER said this bill has probably been the biggest fight in the legislature this session, but he feels that probably most everyone is happy with the present bill and it needs to be moved forward.

SEN. ECK said there was some coordinating language and there were comments that the reimbursement provisions in this bill will be rolled into the big reimbursement bill, but she wondered if there needed to be an amendment saying something to that effect. **Mr. Heiman** said that **HB 678** has all the coordinating instructions in it, so it will declare the provisions in this bill void and that will then cause the **HB 678** provisions to be used.

Vote: Motion carried 6-1 with Stang voting no.

CHAIRMAN DEVLIN said **SEN. THOMAS** had been asked to carry this.

ADJOURNMENT

Adjournment: 11:30 A.M.

_____
SEN. GERRY DEVLIN, Chairman

_____
SANDY BARNES, Secretary

GD/SB

EXHIBIT(tas79aad)

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on April 13, 1999 at 8:07 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:
Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis (R)
Sen. Bill Glaser (R)
Sen. Spook Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 240, 4/1/1999; HB 515, 4/9/1999; HB 674, 4/9/1999
Executive Action: HB 678; HB 515; HB 253; HB 248

HEARING ON HB 515

Sponsor: REPRESENTATIVE LARRY GRINDE, HD 94, LEWISTOWN

Proponents: Riley Johnson, NFIB
Webb Brown, Montana Chamber of Commerce
Mike Foster, Montana Contractors Association

Opponents: **None**

Opening Statement by Sponsor:

REP. LARRY GRINDE, HD 94, Lewistown, is a bill providing for an interim study of the effects of competition by state political subdivisions with the private sector.

CHAIRMAN DEVLIN said this has been heard before the Committee on Business and Industry, and that is where the amendment went on. He provided copies of the minutes from that hearing, **EXHIBIT(tas80a01).**

Proponents' Testimony:

Riley Johnson, National Federation of Independent Businesses, said his organization stands in support of this bill and would like to participate in the study group. He provided written testimony, **EXHIBIT(tas80a02).**

Webb Brown, Montana Chamber of Commerce, said his organization also supports this bill.

Mike Foster, Montana Contractors Association, said they support the idea of a study.

Opponents' Testimony: **None**

Questions from Committee Members and Responses:

SEN. STANG asked if the amendments were put on on the Senate side, and **REP. GRINDE** said they were. **SEN. STANG** asked if the House would accept those amendments, and **REP. GRINDE** said they would.

Closing by Sponsor:

REP. GRINDE had no closing statement.

HEARING ON HB 240

Sponsor: **REPRESENTATIVE EMILY SWANSON, HD 30, BOZEMAN**

Proponents: **Riley Johnson, NFIB**
Mark O'Keefe, State Auditor
Ron deYong, Montana Farmers Union

Opponents: **John Mercer, Speaker of the House**

Opening Statement by Sponsor:

REP. EMILY SWANSON, HD 30, Bozeman, said **HB 240** is a simple bill that allows for a five-year tax credit for certain employers who make a health benefit plan available to their employees. She said it costs $3.7 million during the first year, the bill provides 50% tax credit for anyone who provides health insurance to their employees; the second year it provides a 35% tax credit; third year, 25%; fourth year, 25%; and fifth year, 25%.

REP. SWANSON said Section 2 of the bill indicates that because this is a health-related issue, it was intended that the money to pay for this would come out of the tobacco settlement proceeds; however, the way the bill came out of the House, the tobacco settlement proceeds can only be used for this purpose. She said she is proposing an amendment, **EXHIBIT(tas80a03),** that would essentially set the bill up so that it could behave in the same manner as
HB 131, which would set up various accounts for this money to be used. If we allow 30% of the money from the tobacco settlement proceeds to go into the General Fund, it would say that the remainder of those proceeds would be deposited into this account to be used for health-related purposes, among which could be the Childrens Health Insurance Program, the Montana Comprehensive Health Association Program, the Tobacco Prevention Program, and a program like this, but would stipulate that any money that the tobacco settlement proceeds would be used for should be health-related purposes.

CHAIRMAN DEVLIN asked if this amendment would make necessary a new Fiscal Note, and **REP. SWANSON** said that it would not change the impacts. This merely sets up an account so the money can move elsewhere.

Proponents' Testimony:

Riley Johnson, National Federation of Independent Businesses, said his organization is in strong support of this bill. He said this is the only bill in this session which really addresses what they feel is the crux of the problem with health insurance for small businesses. He said less than 25% of small employers have some form of health insurance program. If this incentive could actually increase that by 10%, it would be worthwhile. He provided written testimony, **EXHIBIT(tas80a04).**

Mark O'Keefe, Montana State Auditor, said this bill came out of his office, and it was designed initially to address the problem of small businesses and the inability to provide affordable health insurance in Montana. He said the legislature has done a

lot to make health insurance available to Montanans in the last decade, but nothing has been done to address the issue of affordability. The cost of insurance has continued to go up, and as a result, fewer and fewer Montanans are able to afford it. This bill addresses the affordability of insurance for small employers. 96,250 small businesses exist in Montana, and they should at least be able to afford health insurance. Only 26% of employers who have ten or fewer employees provide any health insurance. This bill proposes to solve that problem.

Ron deYong, Montana Farmers Union, said that in tough economic times, the first thing a farmer or rancher does is drop their health insurance because they cannot afford it any more, and the second thing is one of the spouses goes to work in town, a lot of times for small employers. If that small employer could afford a health insurance program, it would benefit that farm family enormously. It would also help out the farmer or rancher who has employees. He said they strongly support **HB 240**, as well as the amendment.

Opponents' Testimony:

John Mercer, Speaker of the House, apologized for this bill. He said he is in favor of what the bill is trying to do, but his concern is with what is being done with the tobacco money. The House of Representatives was unable to pass **HB 131**, which was the allocation of the tobacco settlement proceeds. This bill was sneaked through the House, which he regrets because of the provision that allocated 100% of the tobacco proceeds for this bill, which he believes is wrong. He suggested that this bill be decoupled from the tobacco settlement by deleting any reference to that.

Questions from Committee Members and Responses: **None**

Closing by Sponsor:

REP. SWANSON said she thinks the House was unable to pass **HB 131** because it stipulated that half of that money should be used for tax relief. She said she feels, and so do many others in the House, that it is highly inappropriate to stipulate that money from the tobacco settlement should be articulated as necessary for tax relief. That money is a result of litigation, and it is very clear from both the federal government and the tobacco companies that have settled on that litigation that that money is intended to be used for health-related purposes. This bill fits that intent.

HEARING ON HB 674

Sponsor: REPRESENTATIVE CHASE HIBBARD, HD 54, HELENA

Proponents: Mary Bryson, Director, Department of Revenue
Cathy Muri, Department of Administration

Opponents: None

Opening Statement by Sponsor:

REP. CHASE HIBBARD, HD 54, Helena, said this is a very simple bill that is the result of an audit that turned up some inappropriate uses of bed tax monies, and the Department of Revenue requested a committee bill to solve this problem. It is an act revising the distribution of lodging facility use tax revenue paid by state agencies for in-state lodging; providing that the lodging facility use tax attributable to state agencies be returned to the state agency fund from which the tax was paid. He said currently the 4% that is paid on employees' travel goes to the General Fund. Many of the agencies are partially state funded and partially federally funded, and when that federal money is returned to the State General Fund it leads to some legal problems and some Constitutional problems that were uncovered by the audit. This simply diverts the money back to the fund from which it came.

Proponents' Testimony:

Mary Bryson, Director, Department of Revenue, said the legislative auditor brought this issue regarding the distribution of the accommodations tax monies to the attention of the Department of Revenue and the Department of Administration. She said when state employees travel throughout the state, they are subject to paying the 4% accommodations tax, and the state agencies reimburse those employees for that 4% accommodations tax. When that money is collected by the Department of Revenue, 4% that is associated with state employees' travel is deposited into the General Fund, as is required by current law. The legislative auditor pointed out that that money should perhaps be allocated back to the fund from which it originated to protect some of the federal programs. That is the purpose of this bill, and she urged support.

Cathy Muri, Department of Administration, said **HB 674** changes the distribution of the accommodations tax paid by state agencies from the General Fund to the funds from which the in-state lodging was made. This statutory change is necessary to comply with federal and state law. She urged support of this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. STANG said, assuming a Highway Department worker is required to spend the night out, and part of his pay probably comes out of the Reconstruction Trust Fund, and the project that he is working on might be 87% federally funded and 13% state funded, would that accommodations tax have to be apportioned to the two funding sources. **Ms. Bryson** said it would be divided at the proportion that it was paid out.

SEN. STANG asked if that would create an accounting nightmare for the various state departments, and **Ms. Bryson** said that agencies currently allocate those monies according to the funding split, so that information is available at the agency level. She said that the Department of Revenue and the Department of Administration will have more of an accounting nightmare in determining how that split is going to occur when they put that money back in.

Closing by Sponsor:

REP. HIBBARD said this bill is fairly straightforward and would put the Department of Revenue in compliance with the audit and put that money back from whence it came. He thanked the committee for their time.

EXECUTIVE ACTION ON HB 674

Motion/Vote: SEN. ELLIS moved that HB 674 BE CONCURRED IN. Motion carried 8-0. SEN. ELLIS will carry on the floor.

EXECUTIVE ACTION ON HB 678

CHAIRMAN DEVLIN said there is a very limited time to deal with this bill, and it has been difficult to get enough numbers punched out in two days to make reasonable decisions on this bill even though there is a need. He said care needs to be taken in dealing with it, so the thought is that we would amend the bill to the extent that the House would refuse the amendments, hopefully, and then it would be moved into conference committee for further study. He asked **SEN. GLASER** for the subcommittee's report.

SEN. GLASER said that the subcommittee amended the bill to backfill the lost revenues by using a formula created by him and **Jim Gillett**. He said they deleted from the law provisions of

HB 20, which is a reimbursement mechanism from a previous tax reduction and **SB 417** and folded that into **HB 678** at the 1998 level. They recommend that each Governor's budget from here on have the formula amount in the budget so that it will be discussed every two years. They have fixed the increment district bond problems. They earmarked $80 million for this, and they put in **SEN. BOHLINGER'S** amendment which creates a ratio formula by basing an increase on increases in income tax revenue.

Motion: SEN. GLASER moved AMENDMENT HB067803.ALH, EXHIBIT(tas80a05).

Discussion:

SEN. STANG said he mostly agreed with the amendments because the concept moves Montana in the right direction. He said he wanted to set the $80 million to $90 million, and so he may vote no on this amendment.

SEN. BOHLINGER said from the perspective of those who have concerns about the reimbursement of local governments, he feels their needs must be covered and agreed that the negotiation should begin at $90 million.

SEN. DEPRATU said in this case he believes in starting lower because it seems when it comes to giving away tax money it is very easy to raise it and make ourselves look good, but it is never easy to adjust a high figure down. He said he also agreed with the $80 million figure.

SEN. STANG said he would support the amendment as written and then propose an amendment changing that to $90 million.

Vote: Motion carried 9-0.

Motion: SEN. BOHLINGER moved A PROPOSED AMENDMENT CHANGING THE $80 MILLION TO $90 MILLION.

Discussion:

SEN. GLASER said in the General Fund status sheet there is approximately $70 million that have already been allocated to other bills, and there is approximately $20 million involved in **HB 20** and **SB 417,** but $90 million is probably going to be a little on the high side. He said he agrees with the $80 million figure.

SEN. DEPRATU said he would resist the motion for the reasons he stated earlier.

SEN. ECK said she would support the $90 million. She said we have to recognize that we have promised local governments that they will be reimbursed, but what is really happening in many cases is that they are allowed to increase their mills. She said as much as can be done with real reimbursement should be done. She said residences are only getting one-eighth the relief of businesses, and in addition to that, in many cases the mills are going up, making taxes go up. This reimbursement proposal is important and it should have adequate funding in it to do the job.

Vote: Motion failed 4-5 with Devlin, Ekegren, Ellis, Glaser and Depratu voting no (Roll call vote #1).

Motion: SEN. BOHLINGER moved THE CONCEPTUAL AMENDMENT THAT ON PAGE 2, SECTION (5), "INCREASED OR DECREASED BY THE SAME PERCENTAGE OF THE PREVIOUS YEAR'S INDIVIDUAL INCOME TAX COLLECTIONS AS CHANGED FROM THE 1999 TAX YEAR'S INDIVIDUAL TAX COLLECTIONS" BE ADDED.

Discussion:

SEN. BOHLINGER said in communities like Billings where local governments are working against caps on what they can spend, it has caused them to be very frugal in their management of the assets. However, he said the cost of providing services is far greater than the revenues that are being generated from this new and expanded tax base, and he feels that a formula like this will provide the additional revenues necessary to accommodate growth and provide services for the people that live there. He said he also feels that the ease with which this calculation can be made is attractive. It is simple and straightforward.

CHAIRMAN DEVLIN said he would have a problem with the amendment simply because the rural counties would take the hit on it and the bigger, more populous counties would have a distinct advantage when you get into the population part of it.

SEN. STANG said this is an amendment that the House would probably not like and would reject, which would help to move this into a conference committee; but the other reason is that it is a concept that needs to be developed further.

SEN. ELLINGSON said he was excused when this bill was heard, and he asked if **SEN. BOHLINGER** could expand on this amendment. **SEN. BOHLINGER** said this was introduced by **Mayor Kadas** of Missoula.

He explained to the committee the difficulty Missoula is having providing for the growth that is occurring there, and they need a source of funding that will grow in relation to the population expansion. He felt that if it is tied to income taxes paid, and the rebate to the community was based on the taxes paid, there would be more money available to accommodate the growth and provide the services that are demanded. He said that since this is a conceptual amendment, there are no figures available, but he said he felt we could anticipate a greater pool of dollars available.

SEN. ELLINGSON said, then, that as the income taxes grow in a particular community, that community would be entitled to a greater reimbursement, So if statewide income taxes grow by 5% in a particular year, the funding pool would grow by $4 million for distribution throughout the state. He wondered if he was understanding the concept. **SEN. GLASER** said the funding pool recommendation in **HB 2** as it came from the Governor would increase by that amount; and if there is a downturn, there is a risk that that might go down.

CHAIRMAN DEVLIN asked if the bill provided for a natural increase of 1.5% regardless, and **SEN. GLASER** said that is now gone.

SEN. ELLINGSON asked, then, if there was a floor, and **SEN. BOHLINGER** said in the original form there was a growth of 1.5% allocated annually, but it was not enough so it was taken out.

Vote: Motion carried 7-2 with Ekegren and Ellis voting no.

Motion: SEN. STANG moved PROPOSED AMENDMENT SUGGESTED BY MADALYN QUINLAN, OPI, REGARDING COORDINATION INSTRUCTION, EXHIBIT(tas80a06).

Discussion:

SEN. STANG said this is a coordination amendment for **HB 678** with **HB 90** and **SB 260**. It basically says that "if those two bills and this act are passed and approved and amend 20-9-141, then section 20-9-141 shall read as follows." This basically makes it so it sucks in all of the other nonlevy revenue that may have been missed. It is a technical amendment.

Vote: Motion carried 7-0.

Motion: SEN. GLASER moved that HB 678 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. STANG said it is important that this bill move along. This is an issue that definitely needs to be dealt with, and he is sure that there will be an adequate amount of information from the various agencies to make a decision possible.

SEN. GLASER said that this bill is moving along on three tracks: 1) the House concept, 2) the OPI and Department of Revenue concept, and 3) the Gillett and Glaser concept. He said it is extremely important that the Department and the legislative staff continue to work on all three tracks because if they don't, they will not be prepared to help the conference committee when they drift from one track to the other.

SEN. STANG said this mechanism does not backfill for **SB 184**, and **SEN. GLASER** said that with the amendments, it does. He also said this bill as amended backfills 128, 658, 530, 200, 260 and 184. **SEN. STANG** said if that were the case, the $87 million would not be enough. **SEN. GLASER** said that completely depends on what is done with **SB 184**. He said the mechanism is there to do what needs to be done.

Vote: Motion carried 9-0.

EXECUTIVE ACTION ON HB 515

CHAIRMAN DEVLIN said the Business and Industry Committee had put amendments on this bill to make it a study, and he asked **Mr. Heiman** if that is indeed all it does. **Mr. Heiman** said that was correct.

Motion: SEN. ELLIS moved that HB 515 BE CONCURRED IN.

Discussion:

SEN. ELLIS asked if this is a mandated study, and **Mr. Heiman** said on page 5, line 27, it is a mandated study.

CHAIRMAN DEVLIN said it is something that needs a lot of consideration before it comes in as a bill, and this sets that up.

SEN. GLASER says he sees that it is mandatory that it be assigned to a committee, but the committee may do whatever they want with it.

SEN. STANG said perhaps we should do what the Business and Industry Committee wanted and kill the bill. He said the agencies have studied this issue, and he feels this would tend to micro-manage those agencies. He said since it is not truly mandatory, he would vote against it.

Vote: Motion carried 6-3 with Eck, Ellingson and Stang voting no (Roll call vote #2).

CHAIRMAN DEVLIN said **SEN. SWYSGOOD** would carry the bill.

EXECUTIVE ACTION ON HB 540

CHAIRMAN DEVLIN said this is the question to the people about a flat fee system on automobiles.

SEN. GLASER asked if there was some fiscal information available to the committee this morning, and **SEN. STANG** said **Mr. Gillett** said he would have it to the committee as quickly as possible, but it was not available yet.

Motion: SEN. GLASER moved that HB 540 BE CONCURRED IN.

Discussion:

CHAIRMAN DEVLIN said he had requested a new Fiscal Note, and as long as the Fiscal Note is available before it goes on the floor, it is legal. He asked **Dave Galt, Department of Transportation,** if he had seen a Fiscal Note. **Mr. Galt** said he had checked just a few minutes previously, and they were putting it together at that time.

EXECUTIVE ACTION ON HB 253

Motion: SEN. STANG moved that HB 253 BE CONCURRED IN.

Discussion:

SEN. STANG said he particularly likes this bill. He said he has been really consistent in his march to get rid of the inheritance tax because he feels it is money that does not belong to the state.

SEN. ELLIS said he agreed with **SEN. STANG.**

SEN. GLASER said that if this stays on the status sheet, it will come out of local government. He agrees with **SEN. STANG** about how poor a taxing policy this is, but he said he feels like we

cannot afford to do this this year, and he will have to vote against it.

SEN. BOHLINGER said there are still estate taxes even if inheritance taxes are eliminated, and he supported **SEN. STANG'S** motion.

Vote: Motion failed 3-6 with Devlin, Eck, Ekegren, Ellingson, Glaser and Depratu voting no (Roll call vote #3).

Motion/Vote: SEN. DEPRATU moved that HB 253 BE TABLED. Motion carried 6-3 with Bohlinger, Ellis and Stang voting no (Roll call vote #4).

The committee was recessed at 9:30 a.m. so that the information could be provided.

The committee reconvened at 10:35 a.m.

EXECUTIVE ACTION ON HB 540

CHAIRMAN DEVLIN said the committee now has a new Fiscal Note on **HB 540, EXHIBIT(tas80a07),** and it is indeed a considerable fiscal bang. He said this Fiscal Note is figured upon the 1.4% that is in
SB 260, and reflects a $5.5 million-a-year bang on top of what **SB 260,** which is up to almost $30 million now. He said this bill is the question to the people.

SEN. STANG passed out information regarding projected taxes paid on individual light vehicles in 2001 under **SB 260** compared to registration fees proposed under **HB 540, EXHIBIT(tas80a08),** provided by **Jim Gillett.** He said perhaps this information will help the committee decide what they want to do with this bill.

CHAIRMAN DEVLIN said **HB 540** cuts the fees more than what **SB 260** does, so more people would be covered, but everybody gets a savings out of **SB 260** because it is still ad valorem. This would be a savings on top of the savings.

SEN. STANG said his personal preference on vehicle taxes is that it be paid on the value of the car, but that is not a reason not to put this before the voters. **CHAIRMAN DEVLIN** asked if the figures provided in Exhibit 8 took into consideration the $18.25 in fees that are paid by everyone regardless of what system they are under, and **SEN. STANG** said that that is paid on top of this fee, and he did not know if they considered the total value or not.

CHAIRMAN DEVLIN asked **Dean Roberts, Department of Transportation,** if he had any further information for the committee. **Mr. Roberts** said those figures were just on the tax, not the fees, for either bill.

SEN. EKEGREN said that no matter what a person pays for their vehicle, they both use the same highways and the same services, and the person who pays more for their vehicle should not be penalized because they can afford a more expensive car.

SEN. ELLINGSON asked if the impact on local government as reflected on the Fiscal Note on page 3 is accurate, and **Brian Smith, Department of Revenue**, said these numbers are completely different from those provided by Department of Revenue.

SEN. GLASER said page 3 of the Fiscal Note, under the estimated fiscal impact of **HB 540**, talks about the Department of Transportation current law **SB 260**, and then there is a negative $9 million number there. He said he did not understand that number.

SEN. ELLIS said the legislature has already provided a great amount of tax relief to Montanans, and while passage of this bill will cost the state possibly another $5 million, it actually harms some of the taxpayers who have already received a tax cut and gives other taxpayers an additional tax break. On that basis, **SEN. ELLIS** said he is going to move to table.

Motion/Vote: **SEN. ELLIS moved that HB 540 BE TABLED. Motion failed 2-6 with Devlin, Bohlinger, Ekegren, Glaser, Stang and Depratu voting no** (Roll call vote #5).

EXECUTIVE ACTION ON HB 674

Motion: **SEN. GLASER moved TO RECONSIDER ACTION ON HB 674.**

Discussion:

CHAIRMAN DEVLIN said this is **REP. HIBBARD'S** bill. He said this bill has $105,000 a year bang to the General Fund, and he wondered if the committee had overlooked that fact.

SEN. ELLIS said he had had **Mr. Heiman** prepare an amendment that would adjust the appropriations to all the different accounts to get rid of that $105,000 hit to the General Fund. The Department of Revenue thinks this will get them in order with the federal government a little better, and he suggested that the committee

pass the bill and make sure that the General Fund is backfilled for that $105,000 hit.

Vote: Motion carried 8-0.

Motion: SEN. ELLIS moved A PROPOSED AMENDMENT THAT ANY OF THE MONEY GOING BACK TO THOSE FUNDS WILL REDUCE THE STATUTORY APPROPRIATION A SIMILAR AMOUNT.

Discussion:

Mr. Heiman said he did not have a hard copy of the amendment, but he explained that the proposed amendment is to Section 2, a provision that any of the money that goes back to those funds reduces the statutory appropriation a similar amount. **CHAIRMAN DEVLIN** asked what the effect of that would be, and **SEN. ELLIS** said this bill would cost the General Fund $105,000, but then the statutory appropriation would wash that out so there would be no hit on the General Fund. It would zero it out.

Terry Johnson, Legislative Fiscal Division, said a statutory appropriation as defined by statute as language that does not specify a specific dollar amount. He said he did not know how the amendment could be drafted in such a way that that statutory appropriation could be adjusted accordingly.

SEN. ELLIS said he would withdraw his motion.

SEN. DEPRATU asked **Mr. Johnson** if the amendment could be worded in such a way that each account that was reimbursed the tax would then reimburse the General Fund by a like amount. **Mr. Johnson** said that would be possible.

SEN. ELLIS asked the Department of Revenue how critical this idea is, and **Brian Smith, Department of Revenue,** said there is still a problem with any federally funded accounts.

SEN. STANG asked, since this bill was brought forward to take care of an audit exception that was noted in dealing with federal funds, what effect not passing this bill may have on the federal funds since this has previously been done illegally. He wondered if there was a chance that those funds might be jeopardized. **Jim Gillett, Legislative Audit Division,** said that the federal government might put up with this for a little while if this bill is not passed, but there will come a time when they will just not send the funding.

CHAIRMAN DEVLIN asked if this was a warning to the state from the federal government, and **Mr. Gillett** said that under federal law, from an audit perspective, the Legislative Audit Division acts on their behalf. When the Division reports this to the federal government, it will not just go away.

SEN. ELLIS asked if **Mr. Johnson** would be willing to work with **Mr. Heiman** to create an amendment that would fix this bill so that the General Fund is made whole. They said they could.

EXECUTIVE ACTION ON HB 248

CHAIRMAN DEVLIN said this is the beneficial use bill. He said he is not entirely comfortable with this bill and neither is **SEN. STANG.**

SEN. STANG said he understood that there had been a number of discussions between Butte-Silver Bow and the Department of Revenue, and his assessment of the situation is that if the Department would agree not to certify the mills, it gives Butte-Silver Bow the benefit of going through the process and appealing this bill and the ruling of the Department. If the ruling should come against Butte-Silver Bow, it won't happen until very close to the next session where they would have time to come in and bring this bill again and change it. He said he thinks the Department has put themselves in a position where they may have assessed the tax in error, and they could come to a situation where if Butte-Silver Bow did not have to pay the tax, it could jeopardize the beneficial use tax.

CHAIRMAN DEVLIN asked **Mary Bryson, Director, Department of Revenue,** what the status of the negotiations was, and she answered that they have been continuing their discussions with Butte-Silver Bow and the companies involved. The Department has issued a letter regarding the fact that the Department will not be making the assessment again for the three companies involved. She said she can assure that a tax bill will not be issued before November of 2000, and that gives everyone an opportunity to go through the administrative process of trying to resolve the issue. She said she had the feeling from the Butte-Silver Bow people that they would be willing to reconsider the legislation at this point and wait until the next session, depending on the outcome of the administrative process.

CHAIRMAN DEVLIN said this committee is going to take action on this bill, but they will buy a little time with an amendment so it will end up in a conference committee. He said he would expect some serious movement from the Department or the amendments will be taken off and the bill will be sent out. He

said he is not going to wait another year and see the troop coming into the Revenue Oversight time after time. **Ms. Bryson** said that she expects that if it gets to that point, they will be coming in hand in hand. She said they will try to resolve this by the end of the day.

Motion: SEN. DEPRATU moved AN AMENDMENT TO THE NEW SECTION 3 TO MAKE THE EFFECTIVE DATE DECEMBER 31, 2003, AND TO GET RID OF THE APPLICABILITY CLAUSE, EXHIBIT(tas80a09).

Discussion:

CHAIRMAN DEVLIN said that if at any time later today or before second reading tomorrow there is some serious negotiation and settlement of this matter, it can be amended on the floor. He said he wants to pressure all parties to reach an amicable conclusion.

SEN. ELLINGSON said he would vote in favor of the amendment for the purpose of keeping this bill alive because Butte-Silver Bow's municipal water company has a good point and he was singularly unimpressed with the rationale of the Department of Revenue in explaining why they thought they could tax the water company in the way they have been taxing it.

Vote: Motion carried 8-0.

Motion: SEN. DEPRATU moved that HB 248 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. STANG said he was going to vote against this bill. He said although he does agree with **SEN. ELLINGSON,** he also realizes that by starting to take any type of utility out of the beneficial use tax, it puts the beneficial use tax in jeopardy.

SEN. ELLIS said he had a problem with the arguments by the Department that this threatens the beneficial use tax because in truth this water is owned by Butte-Silver Bow and is transmitted through their system and sold to private companies. He wondered if this sale is taxable for beneficial use, why all the water that that system sells is not subject to the same tax.

Vote: Motion carried 8-1 with Stang voting no. SEN. LYNCH will carry this bill on the floor.

EXECUTIVE ACTION ON HB 540

SEN. GLASER said that **Jim Gillett** is available to help the committee on **HB 540**. He asked **Mr. Gillett** if the Fiscal Note reflects what he expected it to. **Mr. Gillett** said it does not. **CHAIRMAN DEVLIN** asked if he would check it out and provide some further information for the committee this afternoon. **Mr. Gillett** said he would.

SEN. ELLINGSON said he had some questions on page 3 of the Fiscal Note. He said he wanted to know whether under the column "proposed law," which he takes to be **HB 540**, showing a $74 million fiscal impact in Fiscal Year 2001, whether that was cumulative with **SB 260**, on top of **SB 260**, or is that simply the fiscal impact of **HB 540** alone. **Mr. Gillett** said he did not know, but he will check and report back.

EXECUTIVE ACTION ON HB 569

SEN. ELLINGSON asked if the Chair would entertain a reconsideration on **HB 569**. He said this is the alternative transportation bill.

Motion: **SEN. ELLINGSON moved TO RECONSIDER ACTION IN TABLING HB 569.**

Discussion:

SEN. ELLINGSON said this is the bill that was amended to provide a small tax credit to businesses who were helping employees make use of alternate transportation. Since the action taken by the committee in tabling this bill, some interested persons have discussed the bill with various members of the committee about how this could stimulate the growth of alternative transportation and also how it would be good for those businesses who wished to participate in that. He said that the impact of this bill is good and he urged reconsideration on those bases.

SEN. BOHLINGER said he supported bringing **HB 569** forward. He said this is an environmentally friendly bill. It will save about 200 gallons of gas a year, which helps relieve air quality problems, and it will help businesses provide more parking in central business districts. He said he would like to see some sort of incentive provided for major employers who are tax exempt, such as hospitals and governmental agencies, to participate in a program such as this.

CHAIRMAN DEVLIN said he will not support the motion. He said businesses can already get a deduction for providing that service

now, but this would give them another consideration through this bill. He feels it provides a double consideration.

SEN. ECK said this bill encourages policies that save energy, and it will not only help a number of companies to work in this direction, but will also help stimulate discussions and possibly help promote transit systems.

SEN. BOHLINGER said that this program would also help increase revenue that can be used for matching federal funds.

SEN. ELLINGSON said there are three reasons this is a good bill: 1) it is good for businesses, 2) businesses like Stone Container and Stillwater Mining provide bus service to their employees, and that should be encouraged, and 3) it is good for the environment.

Vote: Motion failed 4-5 with Devlin, Ekegren, Ellis, Glaser and Depratu voting no (Roll call vote #6).

The committee recessed until 2:05 p.m., April 13, 1999.

SEN. DEVLIN referred the committee to the fifth revision of the Fiscal Note for **HB 540, EXHIBIT(tas80a10).** He asked **Jeff Blend, Department of Revenue,** to explain the Fiscal Note.

Mr. Blend said the Fiscal Note received by the committee this morning had a major typing error on it regarding the current law number for the Department of Transportation on page 3, which was a minus $9.7 million, and the new Fiscal Note reflects a positive $13 million. He said they did not know where that number came from, but that has now been corrected.

Motion: SEN. GLASER moved TO AMEND HB 540 ON PAGE 54, LINE 24, BY CHANGING THE DECEMBER 31, 2001, AND ON LINE 25, CHANGING IT TO JANUARY 1, 2002.

Discussion:

SEN. GLASER said that if they are successful in the vote, this would set it off one year before it would take effect, and that makes the fiscal impact in the fiscal year after that.

SEN. STANG said that the original Fiscal Note on this bill was $13 million. He said, however, that as a voter, if he voted on something and he had to wait a year to see the effect, he would not be happy.

SEN. ELLIS said **SEN. STANG** is right to a certain extent. The election will be held in November of 2000, and the legislature

will be meeting in January of 2001. This would apply to one-half year without the amendment, so he assumed it would have twice the fiscal impact for the following year. **SEN. GLASER** said that currently the bill would go into effect January of 2001 without the amendment.

SEN. ELLIS asked if this was the maximum fiscal impact, and **Mr. Gillett** said the General Fund effect is in 2001, but it does not double in 2002, even though it is a full fiscal year rather than a half, because you have growth in the number of vehicles and the cost of reimbursing school general funds is lower in that second year because they also pick up some growth. He said the effect in the second year does go up something in the area of $1 million, but it does not double.

SEN. ELLIS asked if there would be a $13 million impact in the next biennium, and **SEN. GLASER** said that was correct.

SEN. DEPRATU asked **Dean Roberts, Department of Transportation,** for further clarification. **Mr. Roberts** said the Department of Transportation has a problem with this bill which they have had all along, and that is that they have costs of about $300,000 to do the work necessary to make this work, and there is no way that can be done between November and January 1st. This amendment would resolve that.

SEN. DEPRATU said people in Montana are reasonable, and he felt that the voters could be informed of the situation when they receive their voter pamphlet.

Vote: Motion carried 8-1 with Stang voting no (Roll call vote #7).

Motion/Vote: SEN. GLASER moved that HB 540 BE CONCURRED IN AS AMENDED. Motion carried 8-1 with Ellingson voting no. SEN. DEPRATU will carry this bill on the floor.

EXECUTIVE ACTION ON HB 674

CHAIRMAN DEVLIN said he did not really want to do much with this bill. He said there has been a lot of discussion about the federal government doing something unless this is resolved, and in two years there will be another report saying, "You ought to do this," and he was not inclined to give up the $105,000 a year.

SEN. ELLIS said there is an amendment which would recover that money that has been approved by all parties.

Motion: SEN. STANG moved that HB 674 BE CONCURRED IN.

SEN. ELLIS read the proposed amendment. "Unless prohibited under terms of original receipt of the funds used to pay the lodging facility use tax, each fund shall reimburse the state General Fund for the deposit made pursuant to 15-65-121."

Motion/Vote: SEN. ELLINGSON moved AMENDMENT HB067401.ALH. Motion carried 9-0.

Motion/Vote: SEN. STANG moved that HB 674 BE CONCURRED IN AS AMENDED. Motion carried 9-0.

EXECUTIVE ACTION ON HB 240

CHAIRMAN DEVLIN said that the amendments that had been put on this bill do not fit under the title.

Motion: SEN. STANG moved that HB 240 BE CONCURRED IN.

Motion: SEN. STANG moved AMENDMENT HB024002.AGP.

Discussion:

SEN. STANG said the amendment merely says "providing for the use of the funds," and they were prepared by Greg Petesch.

SEN. ECK said there is a lot of concern out there about these tobacco proceeds being put into a trust fund or something, and Amendment No. 3 says that 30% should to go the General Fund and the remainder should be appropriated by the legislature for health-related programs. She said it is broad enough that it does not tie the legislature down, and it requires that 30% goes into the General Fund. She said the tobacco settlement proceeds should not be used for tax relief.

SEN. BOHLINGER said he is in favor of the amendment. He said some of the unfinished business of this session deals with the way the tobacco funds are dealt with. He said he believes that the people of Montana have some expectations about how these funds will be used, and stipulating that 70% of those funds will be used for health-related programs covers that concern.

CHAIRMAN DEVLIN said as the bill came to this committee, it was for credit on premiums paid by an employer, and now appropriations are being made out of it for 30% to the General Fund and down through the list of programs. He said anytime you take money for a special fund, you are just moving General Fund monies out to that program. He said he will resist the amendment.

SEN. GLASER asked if something other than "appropriated" would have to be used. **Mr. Heiman** said it does not actually appropriate any money, it just provides that the money has to be appropriated.

SEN. STANG said he is in favor of the amendment and he likes the bill. He said he likes the fact that these funds are going to health-related programs, and he appreciates the fact that this helps small businesses provide health insurance for their employees. He said it is appropriate use of the tobacco settlement money.

SEN. ELLINGSON said that as the bill came to the Committee, 100% of the tobacco money was going to go into this account, and there is a consensus that that is not a good idea. He said this is a good bill, and he favored passing the amendment so this good bill can be moved out.

SEN. ELLIS said he is going to support the amendment and is going to suggest another amendment to replace item "C" with state mandated Medicaid responsibilities. He said he thinks the amendment makes a bad bill slightly better, but he is not going to support the bill in any case.

SEN. DEPRATU said he is going to vote against the amendment and against the bill. He said he did not think that the tobacco money should be used as a tax credit to any employer. He said the concept is good, but the funding is not.

SEN. EKEGREN said there is $30 million from the tobacco settlement, and everyone wants special funds, but he wondered if these funds were not paid out of the General Fund. **CHAIRMAN DEVLIN** said that **HB 2** will fund the various programs out of these monies.

SEN. ECK said she has worked for years to get money for various health programs, but the Appropriations Committee will not provide funding for those programs. They are only funded because there is some federal money available. She said for the first time there is a block of money that is coming for that specific purpose, and she believes it will make a big difference for the health of Montana citizens.

SEN. BOHLINGER said it is his understanding that something was stated early on that the federal government had put some restrictions on how these funds were to be spent, and that if it was not earmarked for health-related matters, it should not be used just for General Fund. If it is, they may require repayment

of the federal share of Medicaid. **CHAIRMAN DEVLIN** said there are no strings attached at this point.

SEN. STANG said he believes it is prudent to put the amendment on and pass the bill out. He said this bill will be talked about on the floor one way or the other, and he believes it is a good bill.

Vote: Motion carried 5-4 with Devlin, Ekegren, Glaser and Depratu voting no (Roll call vote #8).

SEN. ELLIS said he would like to add a further amendment, Item (d), "state mandated Medicaid responsibilities."

Motion: SEN. ELLIS moved AN AMENDMENT ADDING "(D), STATE MANDATED MEDICAID RESPONSIBILITIES."

Discussion:

SEN. STANG said his only question is whether there is any particular order related to these items. **SEN. ELLIS** said that many of the health issues paid for by Medicaid are the result of cigarettes, and it is a logical place to spend these monies. **SEN. STANG** asked, though, if **SEN. ELLIS** was prioritizing this, and that after these other things are funded, anything left over goes to Medicaid, or something else. **SEN. ELLIS** said he didn't think they were prioritized presently and it didn't really matter to him.

SEN. ECK said she thought that this amendment is perfectly appropriate.

Vote: Motion carried 9-0.

Motion: SEN. STANG moved that HB 240 BE CONCURRED IN AS AMENDED.

Discussion:

CHAIRMAN DEVLIN said he is going to resist the motion. He said this bill was put together one way and now we have amended it to change almost the total intent of the original bill.

SEN. ECK said that this bill was by request of the Committee on Jobs and Income, and most of those parts of the bill that were supported by Democrats have been removed from the bill. She said most of the jobs and income programs that we have now really benefit not just business, but big businesses; however, this is one part that was recommended by this committee which benefits

small employers and their workers. She said this bill has a fairness and equity about it and is appropriate use of those tobacco funds.

SEN. DEPRATU said once again that it was never the intention of the Jobs and Income Committee that they would look to the tobacco funds to fund this, and he feels that that is what is being done now and it is an inappropriate use of those settlement funds.

SEN. STANG said sometimes bills don't end up the way they started, but this is more than just a tax credit for employers, it is a benefit to the employees.

Vote: Motion failed 4-5 with Devlin, Ekegren, Ellis, Glaser and Depratu voting no (Roll call vote #9).

Motion/Vote: SEN. DEPRATU moved that HB 240 BE TABLED. Motion carried 5-4 with Bohlinger, Eck, Ellingson and Stang voting no (Roll call vote #10).

The Committee received a memo from Harold Blattie, Stillwater County Commissioner Chair, to **REP. ROBERT STORY**, regarding **HB 678, EXHIBIT(tas80a11),** "Fiscal Impacts of Alternative Development Patterns: Broadwater and Gallatin Counties, **EXHIBIT(tas80a12),** and "The Fiscal and Economic Impacts of Local Conservation and Community Development Measures," **EXHIBIT(tas80a13).**

ADJOURNMENT

Adjournment: 4:00 A.M.

_____
SEN. GERRY DEVLIN, Chairman

_____
SANDY BARNES, Secretary

GD/SB

EXHIBIT(tas80aad)